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Evolution of the Canadian Broadcasting System

Objectives and Realities,
1928-1968


by David Ellis

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Foreword

From time to time, the Department of Communications publishes papers dealing with issues in telecommunications, which are intended to inform and help stimulate public discussion.

"Evolution of the Canadian Broadcasting System: Objectives and Realities 1928-1968" analyses some of the main themes that have tended to dominate the policy debate on Canadian broadcasting from the establishment of the Aird Commission in 1928 to the proclamation of the Broadcasting Act in 1968. It traces elements of the growth of the Canadian Broadcasting Corporation, examines some of the principal regulatory questions of the period, indicates the tensions that emerge between the public and private sectors, reviews the major inquiries of the time and outlines the positions various governments assumed as reflected in their legislative initiatives. Despite technological and attitudinal changes during the forty year period readers will find many of the key problems discussed remain unresolved to this day.

The paper does not attempt to treat the evolution of Canadian broadcasting in the detailed manner of academic studies already available but rather summarizes a good deal of that material and concentrates on what the author believes were the main forces shaping broadcasting policy developments.

We and the author would like to express our appreciation to Messrs. Henry Hindley, J. Alphonse Ouimet, F.W. Peers and Graham Spry for their kind assistance in the preparation of this study.

Of course, the views expressed in this paper are those of the author and not of the Department of Communications.

What experience and history teach is this —
that people and governments have never
learned anything from history, or acted on
principles deduced from it.

G.W.F. Hegel
Philosophy of History

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Chronology

- 1919 — first Canadian radio broadcast
- 1926 — Canadian Association of Broadcasters (CAB) founded
- 1927 — first national radio broadcast
- 1928 — Aird Commission appointed
- 1929 — Aird Report
- 1930 — Canadian Radio League (CRL) formed
- 1931 — first jurisdictional dispute with provinces over broadcasting
- 1932 — Canadian Radio Broadcasting Act (established CRBC)
— Trans-Canada Telephone System (TCTS) formed
- 1933 — CRB Act amended
- 1936 — Canadian Broadcasting Act (established CBC)
- 1941 — Havana Treaty (North American Regional Broadcasting Agreement) ratified
- 1949 — first federal TV policy
— Massey Commission appointed
- 1951 — Massey Report
- 1952 — TV begins in Canada
- 1953 — receiver licence fees abolished
- 1955 — Fowler Commission appointed
- 1957 — Fowler Report (Fowler I)
- 1958 — Broadcasting Act (created BBG)
- 1961 — CTV begins
- 1963 — Glassco Commission Report on CBC
- 1965 — Fowler Committee Report (Fowler II)
- 1966 — White Paper on Broadcasting
- 1967–68 Broadcasting Act (created CRTC)

1

Creating a National System

The Aird Report

The first formal recognition by government of the potential benefits — and risks — to Canada of the medium of radio broadcasting came with the appointment in December 1928 of the Royal Commission on Radio Broadcasting, under the chairmanship of Sir John Aird. Aird, president of the Canadian Bank of Commerce, was to be assisted in his task by Charles Bowman, editor of the *Ottawa Citizen*, Dr. Augustin Frigon, director of the *Ecole Polytechnique of Montréal* and director-general of technical education for the province of Québec, and Donald Manson, chief inspector of radio, Department of Marine, Ottawa, acting as secretary. The commission had a mandate "to examine into the broadcasting situation in the Dominion of Canada and to make recommendations to the government as to the future administration, management, control and financing thereof." A number of political and technical considerations had prompted Mackenzie King's government to initiate this comprehensive federal inquiry.

The most important of these was perhaps the international chaos which reigned over the airwaves through the 1920s, and in particular, the threat posed to Canadian sovereignty by the burgeoning radio empires of the United States. Because of a lack of effective controlling legislation over American operators and of an equitable international agreement between the two countries, Canadian air channels were subject to continual invasion and appropriation during this period. The U.S. stations were far more

numerous, better financed and a great deal more powerful than their Canadian counterparts.¹ Moreover, negotiations between Ottawa and Washington on channel allocations had broken down in the year preceding appointment of the royal commission. At the same time, U.S. broadcasting was coming under network domination, vertical integration was making the industry there increasingly monopolistic and certain key Canadian stations were moving to become affiliated with the U.S. chains.

There were also purely domestic concerns about broadcasting for Canada. Stations here were forced to share frequencies, were uncertain about the status of their licences and had to struggle to find revenues large enough to keep them on the air. Such difficulties were part of a wider confusion as to the ultimate purposes of broadcasting in Canada and of a distinct lack of appropriate federal policy and regulation.² At the same time, the enthusiasm which greeted the Diamond Jubilee national radio hookup on Dominion Day, 1927, was a measure of the delight which attended the introduction of radio service across the country. As the Aird Commission soon found, there was "unanimity on one fundamental question — Canadian radio listeners want Canadian broadcasting" (Aird Report, p. 6).

The event which really precipitated government action, however, was the controversy over broadcasts of the International Bible Students Association, later known as the Jehovah's Witnesses. These broadcasts, made in 1927 and 1928 over stations licensed to the association, had taken a scurrilous tone, and stirred up waves of protest from both religious organizations and the general public. This prompted the responsible minister, P.J.A. Cardin, of the Department of Marine, to recommend against renewal of the association's broadcast licences after March 1928. This action, which was interpreted inside and outside the House as a piece of religious censorship, and therefore a threat to freedom of speech, led in turn to protest meetings and denunciations across the country. Beset by international wrangling, technical and commercial chaos, and now a religious controversy involving serious questions of principle over government intervention into the content of broadcasting, Cardin put forward the idea of a royal commission in the hope of finding solutions to some of the dilemmas confronting the government, and the nation.

Even before the Aird Commission began its work, members on both sides of the House were speaking enthusiastically of a nationalized broadcasting system for Canada. Cardin himself, in the debate on the Bible Students affair, remarked that the Canadian government was considering "whether or not it would be

1 Even as late as 1932, the combined power of the former was some 680,000 watts, as against fewer than 50,000 watts for the latter.

2 Technical aspects and licensing of radio were controlled, in a not altogether efficient manner, under the 1913 Radiotelegraph Act.

generally advantageous to adopt a policy of national broadcasting along the lines adopted in this respect by the British government." And earlier still, in November 1926, Mackenzie King had announced during a radio speech in Great Britain that, to his way of thinking, "the British method of regulating the use of radio for the public entertainment has much to commend it."

The Aird Report, submitted to the Minister of Marine in September 1929, made 13 principal recommendations. In the main, they aimed at the creation of a publicly owned and controlled system which would indeed owe much to the British model, as King and Cardin conceived it. These were the crucial provisions:

- that "broadcasting should be placed on a basis of — public service and that the stations providing a service of this kind should be owned and operated by one national company [whose] status and duties should correspond to those of a public utility";
- that "high-power stations should be erected across Canada to give good reception over the entire settled area of the country during daylight [and] that the nucleus of the system should possibly be seven 50,000 watt stations";
- that "pending the inauguration and completion of the proposed systems, a provisional service should be provided through certain of the existing stations [and] all remaining stations . . . should be closed down";
- that "expenditure necessary for the operation and maintenance of the proposed broadcasting service should be met out of revenue produced by licence fees, ^{or} rental of time on stations for programs employing indirect advertising, and a subsidy from the Dominion Government"; and
- that "while the primary purpose should be to produce programs of high standard from Canadian sources, programs of similar order should also be sought from other sources."

In sum, if contemporary opinion and testimony before the commissioners were not entirely unequivocal in the matter of a Canadian broadcasting model, the considered position of the commissioners certainly was. "From what we have learned in our investigations and studies," they wrote, "we are impelled to the conclusion that [the] interests [of the listening public and of the nation] can be adequately served only by some form of public ownership, operation and control behind which is the national power and prestige of the whole public of the Dominion of Canada." It was one thing, of course, for the royal commission to give its wholehearted support to a nationalized system; it was quite another for the government to implement the commission's

recommendations in policy and, ultimately, legislation. What, then, was to be the immediate political fate of the Aird Report and the broadcasting ideals it embraced?

Nationalization: Conflict and Delay

The report had not been submitted at an opportune moment, as events would soon demonstrate. Within weeks, stock markets were to collapse, plunging Canada into the Great Depression, and shortly afterwards, Mackenzie King would decide to dissolve his government and call a federal election. Creation of the national radio system was therefore entrusted to what was in effect a lame-duck government which was suddenly confronted by an economic and social crisis of enormous proportions. Meanwhile, determined private interests, led by the Canadian Association of Broadcasters (CAB, formed in 1926), the most prosperous radio stations (notably CKAC Montréal and CFRB Toronto) and several leading newspapers (notably the *Toronto Telegram*, *La Presse* and the *Montreal Star*), were busy marshalling support for their opposition to the Aird recommendations.

Cardin remained publicly non-committal about a broadcasting policy until February 1930, when the prime minister, at the opening of a new parliamentary session, promised to introduce a bill, but only after a special House committee had considered some of the technical issues raised by the report. By now, however, King had already decided to call an election for the following summer. The report was referred to the special committee, which never met, and the House was dissolved in June before any action could be taken.

If the business of drafting broadcasting legislation was now to be resolved, it would be a Conservative government under R.B. Bennett that would do so, because the Liberals had been defeated by the opposition in the July 28 election. There were three reasons why this was not a development to please the advocates of a publicly owned system. First, the new prime minister and his colleagues were strongly committed to private enterprise; second, the Conservatives were openly hostile to one of the early champions of national Canadian radio, CNR president Sir Henry Thornton; and third, Bennett had very close ties with the CPR and its president, E.W. Beatty, who was now promoting a scheme for a national radio system to be operated by the CPR, one which was at odds with all that Aird had recommended. At this juncture, any delay in bringing forward legislation was likely to harm the cause of nationalization, since a very large number of applications for private station licences were already pending at the Department of Marine. Nevertheless, the new minister, Alfred Duranleau, gave assurances in September that if any new licences were

granted (which seemed unlikely), the operators in question would be warned that expropriation might follow at a later date.³ In any case, whatever Bennett's sympathies may have been to begin with, two major developments took place in the following months that won the prime minister's enthusiasm for the public ownership scheme; these were the formation of the Canadian Radio League (CRL)⁴ and resolution of the jurisdictional dispute with Québec.

The Canadian Radio League was created in Ottawa during October 1930 (and formally constituted in December) at the initiative of Graham Spry, Alan Plaunt and a number of other able, public-spirited young Canadians who shared an enthusiasm for the nation-building possibilities offered by radio, and who wished to see the proposals of the Aird Report realized. Spry had been national secretary of the Association of Canadian Clubs, and both he and Plaunt were connected with the Canadian Institute of International Affairs. With their impressive contacts in the highest political and social circles, their diligent study of the whole question of broadcasting and their unremitting efforts to organize support, Spry and Plaunt, working with associates scattered across the country, became the leading advocates of nationalization and the eventual architects of the legislative scheme which was finally adopted by the federal government. Their success in stirring public sympathy was not merely a question of numbers, for their supporters represented a wide cross-section of Canadian opinion — politicians of every stripe, voluntary and professional organizations, academics, clerics, financiers, businessmen and the great majority of newspaper editors. But the League's very success in uniting opinion, and the outspoken way in which Spry and Plaunt promoted their cause, led the opponents of public ownership to redouble their efforts to persuade both the public and the government that nationalization would be expensive, inefficient and unfair to the private operators, and would deprive Canadians of the programming they had come to enjoy. Throughout 1931 the two sides continued to fire volleys at each other over the airwaves, as well as in editorials, articles, pamphlets and public pronouncements. It took a crucial legal decision of the Privy Council in London to galvanize Bennett and bring the whole issue to a head in Parliament.

In early 1931, Québec and three other provinces (New Brunswick, Manitoba and Saskatchewan) asked the Supreme Court to give a ruling on the question of whether the federal government or the provinces had jurisdiction under the BNA Act over radio broadcasting. The case, which had arisen because of a testy dispute between Premier Taschereau and the federal government, was decided in favor of the federal régime, whose case had been

3 Duranleau's Liberal predecessor Cardin had given similar assurances less than four months previously.

4 Which later became the Canadian Broadcasting League.

supported before the high court by the Radio League. An appeal was lodged with the Privy Council, which in early 1932 upheld the previous decision and paved the way for action. This definitive legal ruling was all the prodding Prime Minister Bennett needed: scarcely had the Privy Council decision been rendered, when he proposed that a committee of the House be established to consider the Aird Report and "a complete technical scheme of radio broadcasting for Canada".

Parliament Responds

The 1932 Special Committee on Radio Broadcasting, chaired by the Hon. Raymond Morand, began its proceedings in March. The committee heard testimony from the three Aird commissioners; from Graham Spry and others connected with or supporting the Radio League; from Edward Beatty, president of the CPR, and a variety of opponents to the nationalization scheme, including representatives from the private stations, the CAB, advertising interests and the Canadian Manufacturers' Association; and from the director of radio at the Department of Marine, Commander C.P. Edwards. While Edwards confirmed that many of the private stations had recently benefitted from power increases and U.S. network affiliation, the quality of their programming had, by all accounts, deteriorated in the preceding two years. The Aird commissioners, for their part, restated their conviction that only a publicly owned system could serve the public interest. The private operators and their allies continued to claim that nationalization would be very costly and cause a dramatic rise in the receiver licence fee (to as high as \$30 a year from \$1), but their figures were consistently refuted by the advocates of nationalization. The private interests advanced a number of competing schemes of their own, but in every case, despite private commercial control, there was to be reliance on public subsidies of one sort or another. On this point both sides were agreed: no comprehensive national system could be commercially self-sustaining. It was left to Beatty to propose a mixed public and private system in which the railways would have an important interest, and in which control, though exercised under government supervision, would remain in private hands. However, the only scheme which really captured the committee's imagination — and had the appearance of being practicable — was that proposed by Graham Spry and Alan Plaunt on behalf of the Radio League.

— In his articulate, forceful and thoroughly researched presentation, Spry advocated a system which borrowed from the Aird Report in certain essential respects: there should be public ownership of a chain of high-power outlets, controlled by a national company whose board would have substantial provincial representation; the company would operate independently of govern-

ment and encourage competition in program production, though not, of course, in program distribution. On at least two major recommendations, Spry parted company with Aird: the status of small private stations and methods of financing the public system. First of all, Aird had envisaged the eventual absorption or elimination of all independent stations. Spry, however, saw low-power (50-watt) stations, owned by private entrepreneurs, amateur operators or civic authorities, as playing a useful role in providing a local community service. And in the second place, Spry advocated not three sources of revenue for the public system, as had Aird — licence fees, indirect advertising and a public subsidy — but only the first two, with a rejection of any reliance on public funds. On one financial point, there was explicit agreement among the advocates of nationalization, and this was viewed as essential to the independence and vigor of the system: the receiver licence fee would very soon have to be raised to \$3 annually.⁵ Spry also made it clear that the success of a publicly owned system would require a representative board answerable to Parliament, but non-partisan in nature and independent of the government of the day.

The report of the special committee submitted to the House on May 9 adhered closely to the Radio League's proposals and was, in effect, an overwhelming endorsement of the idea of a publicly owned and controlled system. It recommended a chain of high-power stations complemented by low-power local stations; a self-sustaining revenue base; and a non-partisan commission empowered to regulate the system and operate stations. The League executive and its supporters were understandably jubilant, while certain business interests, newspapers and Conservative members expressed their distrust or disapproval of what the committee had proposed.

Prime Minister Bennett wasted no time in responding to the committee report with legislation, and first reading of the new broadcasting bill (Bill 94) was given just one week after tabling of the report. Two days later, on second reading, Bennett made a policy pronouncement of great significance, in which he explicitly embraced the philosophy of public ownership espoused by Aird, Spry and their supporters. Bennett expressed his main concerns in the following manner:

First of all, this country must be assured of complete control of broadcasting from Canadian sources, free from foreign interference or influence. Without such control radio broadcasting can never become a great agency for communication of matters of national concern and for the diffusion of national thought and ideals, and without such control it can never be the

5 The government had raised it to \$2 from \$1 in February.

agency by which national consciousness may be fostered and sustained and national unity still further strengthened. . . .

Secondly, no other scheme than that of public ownership can ensure to the people of this country, without regard to class or place, equal enjoyment of the benefits and pleasures of radio broadcasting. . . .

Then there is a third person. . . . The use of the air . . . that lies over the soil or land of Canada is a natural resource over which we have complete jurisdiction under the recent decision of the privy council [and] I cannot think that any government would be warranted in leaving the air to private exploitation and not reserving it for development for the use of the people. (*House of Commons Debates*, May 18, 1932).

Thus, three basic principles lay behind the Canadian Radio Broadcasting Act, which became law on May 26, 1932: the protection of national sovereignty (particularly from the incursions of U.S. operators, though this was not made an explicit issue); the extension of broadcasting to all settled parts of the country, or "equality of service"; and the notion that the airwaves constituted a limited natural resource, which should be exploited as a public monopoly.

As things transpired, however, the actual provisions of the new act were not entirely in keeping with its spirit or intent. The act established the Canadian Radio Broadcasting Commission (CRBC), a salaried three-man body — not the company or corporation urged by Aird and Spry. It had powers to regulate and control Canadian broadcasting on the one hand, and to carry on broadcasting on the other, and therefore had responsibility for such matters as the issuance of station licences, channel allocations, advertising time and the formation of private networks. More generally, the act placed the existing stations under a new régime, one which theoretically would allow the commission to take over all broadcasting in Canada, subject to the approval of Parliament. Funding was to be provided from parliamentary appropriations, not by monies paid directly through licence fees or advertising revenues. The extent of the commission's technical and programming responsibilities was not matched by its corporate powers: it could not, for example, borrow money or make its own budget or staffing decisions. Just as importantly, there was no provision for a general manager independent of the board, with responsibility for day-to-day administration. Before long, the commission's political vulnerability, the lack of independent funding and unworkable administrative arrangements — all weaknesses which the government had been warned about — would begin to take their toll.

2

The Rise and Fall of the Canadian Radio Broadcasting Commission

The CRBC in Operation

It is probably no exaggeration to say that the CRBC was doomed to failure from its very inception. There were, firstly, serious financial, administrative and political weaknesses in the provisions of the legislation itself. But the commission's problems were not merely structural; they had much to do with the personalities of the three men who were now appointed to carry out the new national broadcasting mandate.

The new commission members, appointed during October 1932, were Hector Charlesworth, then editor-in-chief of the influential *Saturday Night*, as chairman; Thomas Maher, a forestry engineer and businessman from Québec, as vice-chairman; and Lt.-Col. A.W. Steele, a radio engineer and technical advisor to the government, as the third member. Even before the commissioners had held their first official meeting together in early 1933, criticisms were heard over their qualifications for the job. Although Maher had been involved with the operation of a radio station in Québec and Steele had proven technical ability, none of the commissioners — and especially Charlesworth — seemed to have much grasp of the problems of broadcasting in general. In addition to bringing little administrative or business experience to their task, the three men had qualities of character and methods of working which offended many of those who came into contact with them and which militated against their operating as a coherent corporate unit. In Maher's case, there was a further point for the

Liberals to harp on — his highly partisan political background. Once a candidate for office as a Conservative and founding editor of the arch-Conservative *Le Journal*, Maher had been appointed by the Bennett cabinet for reasons of his political sympathies, rather than his qualifications. Later, Maher's relations with the other two commissioners, and the government, so deteriorated that in July 1934 he was to resign his post.

The nature of Maher's appointment — which was in flagrant disregard of an inter-party understanding that the commission would remain non-partisan — was symptomatic of the difficult political environment in which the commission was forced to work. This was not merely a matter of the commission's own lack of independence from the government of the day. It had also to do with the willingness of both Liberal and Conservative régimes to grant new station licences and power increases in overt support of friendly newspaper and station interests, even though it was the express policy of the Bennett government after 1930 not to grant new licences for private stations until the Aird Report had been acted upon. It was well known, however, that Prime Minister Bennett himself had a strong commitment to both the protection of vested private interests and the principles of public ownership.¹ This ambivalent attitude, which was shared by many Conservatives and Liberals, was evidence of the contradictory influences exercised on Canada's political leaders by the British and American models of broadcasting. It created frustrations for the CRBC and had a lasting effect on the national system as a whole.

Meanwhile, the CRBC was making progress, but also encountering problems on several fronts. In March 1933, the commission acquired the radio transmission and studio facilities of the CNR, ownership of which allowed it to proceed in earnest with program production. The commission was obliged to issue technical regulations, take a stand on the controversial issue of religious programming and begin the disheartening business of battling with Cabinet for funds adequate to the CRBC's ambitious tasks, particularly that of building a chain of high-power transmitters across the country. Then, after being on the air only a very short time, the commissioners became embroiled in a bitter dispute over the use of French-language broadcasts on the national networks. The decision to use French material whipped up a storm of protest — particularly in Western Canada — from individual listeners, MPs and Protestant organizations, and seriously damaged the CRBC's reputation. The dispute, which had been precipitated by a unilateral decision of Maher's to broadcast French west of Ontario, also proved that communication among the three commissioners left much to be desired. It was in this same period — spring 1933 — that Gladstone Murray, the public relations director of the BBC,

1 Graham Spry once referred to this as a "conflict within his soul".

arrived at Bennett's request to make a study of the commission's problems, actual and anticipated.

In his capacity as special advisor to the prime minister, Murray, who was widely respected for his abilities as an administrator, had a mandate to recommend sweeping changes in the structure of the CRBC, as well as in technical, financial and programming arrangements. Murray wrote three reports during his brief stay in Canada, and the first of these quickly prompted the government to put through Bill 99 amending the Broadcasting Act of 1932. There were three important provisions in Bill 99, each of which dealt with what Murray and other observers had come to regard as serious limitations on the commission's effectiveness. First of all, the commission would now be allowed to hire professional staff without reference to the Civil Service Act. Second, the CRBC was allowed to spend not only the moneys appropriated by Parliament but revenues received from any business carried on under the Act.² And third, in order to lease or purchase stations, the commission needed the approval of only the Governor-in-Council, rather than Parliament itself.

These amendments were helpful as far as they went, but many other problems remained, as Murray pointed out. One of the most important of these concerned the administrative structure of the CRBC. In his third report, Murray, holding up the example of the BBC, urged that the public agency responsible for Canadian broadcasting be made an operating company independent of government and safe from the reach of political patronage. Central to this recommendation was the principle that the commissioners should no longer have to concern themselves with day-to-day administrative responsibilities; these should be left to an operating staff headed by a general manager, while the board concentrated on policy. Here Murray was repeating a suggestion previously made by the leading advocates of nationalization, particularly Graham Spry, who foresaw the dangers to autonomy and efficiency of a small, salaried commission like the CRBC. Murray went on to make many other suggestions regarding programming, staffing and public relations, but for the time being at least, his ideas fell on deaf ears, the government being too preoccupied with the problems of the Depression, and the commissioners apparently resenting Murray's intrusion into their affairs.

The Experiment Fails

As 1933 wore on, the commission found itself under increasingly heavy attack from parliamentarians, private stations and

² This provision, however, was a far cry from Murray's recommendation that receiver licence fees, always considered to be a vital source of funds, were now to be regarded as commission revenue rather than as part of the Government's consolidated fund.

the press. There were several reasons for the mounting criticism. The problem of French on the national network continued to fester, and was handled with little grace. The commission's programming policies had so far produced few broadcasts of any distinction, partly because the commissioners had not heeded the advice of the very capable E.A. Weir, who served as program director until he was arbitrarily removed from his post after a series of sharp disagreements with his employers. Actions of this sort, as well as many unguarded and hostile remarks made to the press, were not calculated to improve the commissioners' public image.

All this might have mattered less if, in the meantime, Charlesworth, Maher and Steele had had the resources and the initiative to build the much promised chain of high-power stations, so that network coverage could be extended and the Canadian public allowed to enjoy some of the fruits of the commission's endeavors. As it was, serious obstacles stood in the way, not the least of which was money. For its first full fiscal year, 1933-34, the CRBC was given a total budget of \$1 million. This represented much less than what both Aird and the Radio League had recommended as a workable minimum for capital and operating expenditures; in fact, it did not even represent the full amount of revenue generated by receiver licence fees. With the very limited funds at its disposal, the commission was unable to contemplate a major transmitter and studio building program of its own, and there were not many alternatives.

One of these was to persuade independent stations to carry sustaining (non-sponsored) programs for a nominal fee. While many of the small stations were more than willing to be provided with programming to fill out their often meagre schedules, the most powerful and prosperous stations — notably CFRB Toronto and CKAC Montréal — could well afford to turn the commission down, and that is exactly what they did. Arguing that the commission's proposed rate was far below their commercial minimum, Canada's two leading stations refused their co-operation in the provision of a national service and, as a result, left the commission with a serious gap in its fledgling network. The commission's response was to acquire limited station facilities of its own in Toronto and Montréal, a move which brought the total of publicly owned stations across the country to six.

At this point the commission could have taken up a third option and, under its statutory powers, requisitioned time on private stations for its sustaining service, or else expropriated stations outright and added them to its physical facilities. In choosing not to do so, the commissioners revealed something not only of their own timidity as stewards of the broadcasting system, but also of the government's reluctance to see the provisions of its own legislation carried out. There were angry protests when the commission set up its facilities in Toronto and Montréal, on the

grounds that public funds were being squandered in order to deprive private operators of their livelihood. Any other attempt to tamper with vested interests, even under the statutory powers, was bound to be fraught with risks which neither Cabinet nor the commission was willing to take. The commission was therefore forced to settle on a compromise in the creation of its basic network. It proposed to combine the facilities of its own six stations with those of a number of independent stations across the country, most of them quite small, and pay them a fee for their co-operation. The commission, as we have noted, was not prepared to pay these private sector affiliates very much, but the fact that they were paid anything at all did not sit well with the advocates of nationalization, who pointed out that this action was quite out of keeping with the spirit of the legislation and the will of Parliament.

The interpretation of the 1932 Act which lay behind this scheme for a basic service may have been unusual, but so was the contractual arrangement made with the transmission companies. In late 1932 and early 1933, the commission had negotiated a line contract with the joint services of Canadian Pacific and Canadian National Telegraphs, which was signed on April 1, 1933. Under the agreement, the commission leased transmission circuits from the railways for four and a half hours a day, at a fixed annual rate, to allow distribution of its programming to 39 stations in 34 centres. But the contract provided further than only *sustaining* programs could be distributed; *commercial* programs were specifically excluded. The commission was thereby deprived of a potentially lucrative source of income, as well as of potentially wide audiences for its programming. It is difficult to know what the rationale for this compromising arrangement may have been. Quite apart from the possible advantages to the commission of sponsored network programming, the 1932 Act quite specifically contemplated that commercial activity should come within its purview. This arrangement with the carriers greatly restricted the kinds of programming which the commission could offer to its basic stations until late 1935, when the line contract was renegotiated.

In February 1934, a parliamentary committee was appointed to examine the affairs and structure of the CRBC. The committee hearings, which ran from March until June, provided a good opportunity for the many interested parties — MPs, station owners, advocates of nationalization, the commissioners themselves and others — to air their grievances, assess the situation of broadcasting and make suggestions for improvements in the system. E.A. Weir, Alan Plaunt and Tom Moore (president of the Trades and Labour Congress), all criticized the basic structure of the commission once again, and urged that policy-making and administrative functions be separated, as between a board of directors and a general manager. Private station operators complained at great length of unfair competition from the commission, chaotic channel

allocations and advertising regulations which had an adverse effect on revenues. More than one owner suggested the CRBC should either take over all broadcasting in Canada, as it was empowered to do, or else cease its functions as an operator and retire to a regulatory role much like that of the Federal Communications Commission (FCC) in the United States.³ The commission itself was given ample opportunity to defend its actions, some of which had been severely criticized by Weir. The report finally brought down by the committee in June was not particularly critical of the commission. It recommended that the commission's life be extended for a year (this was acted upon immediately); that certain restrictions on the operations of private stations be relaxed; and in particular, that the government consider revising the Act, "with a view to securing better broadcasting facilities throughout the Dominion".

The government, theoretically, was in accord with this latter suggestion. During debates in 1933, 1934 and again in 1935, it promised that high-power stations would be set up in those parts of the country where coverage was particularly poor — Northern Ontario, the Maritimes, the West. However, a glance at the funds actually voted for the CRBC budget from year to year shows that the government was not entirely prepared to pay for the capital construction program upon which the creation of a truly national system depended. The problem, again, was with the receiver licence fees. On the one hand, the government kept refusing to raise the fee to \$3 as urged by their many advisors, for reasons of political popularity with set owners. On the other hand, as already noted, the monies raised by the existing fee structure were not all turned over to the commission for its own use. At the end of the CRBC's first fiscal year (1932-33), there was a surplus of over a million dollars left from these fees, after payments involving collection, suppression of interference and so on. Together with the surplus generated in the ten-year period preceding the commission's creation, this amount would have easily paid for construction of a chain of high-power stations across the country.

To make matters worse, there was an attempt in June 1933 by some members of Cabinet, who were taking advantage of the prime minister's absence, to have the commission's already inadequate budget of \$1 million cut in half. The move was defeated only when Charlesworth threatened to tender his resignation to the prime minister, then in England. Subsequently, the commission was forced to limp along through the next fiscal year with a budget of \$1.25 million, and through 1935-36 with a vote of \$1.5 million. The fact that the chain of high-power stations was never built had

³ In May and again in June, Charlesworth himself suggested first to the government, then to the press, that the CRBC's functions as an operator and regulator should be handled separately, with a second agency being created to produce and distribute programs.

one very serious and lasting effect on the nature of the system: it forced the CRBC to rely increasingly on private stations for the provision of its service and the extension of a national network. This very quickly gave the private stations a place in the broadcasting system out of all proportion to that contemplated by the Aird Report or the 1932 Act.

Pressure for a New Organization

By 1935, despite its many troubles with government, press and private operators, as well as its own organizational structure, the CRBC had become a program producer of some distinction and popularity. Both the quantity and quality of broadcasts had improved, and these changes made a good impression on the listening public. There were now more talks, dramatic and documentary features, musical programs of a serious nature, special events and spectacles, and even newscasts (which were very welcome among the rural population). Later in the year, a renegotiated wire-line contract with Canadian National and Canadian Pacific allowed the commission to broadcast commercially sponsored programs, in addition to its sustaining programs, and this lent greater variety to the schedules. In the meantime, however, an election was called for the fall, and just as the commission seemed to be consolidating its position, at least as a programmer, the political wind began to shift. It was an event associated with the election campaign, and in which the commission was implicated, that finally spelled its demise.

The event in question was the controversy that developed over a series of partisan political broadcasts produced on behalf of the Conservatives for their campaign in September and October 1935. The "Mr. Sage" broadcasts, six in all, were dramatized propaganda vehicles featuring a staunch, small-town Tory (Mr. Sage), who discussed the election issues with his friends, praised Conservative policy to the skies and delivered himself of some rather offensive remarks about the Liberals in general and Mackenzie King in particular. What raised the hackles of the Liberals — and even some skeptical Conservatives — was not the purely partisan nature of the broadcasts, but the fact that the programs were produced in part with commission facilities, went out over some CRBC stations⁴ and were not identified as to their political sponsorship, giving many people the impression that they had the commission's blessing. Produced by the Conservative Party's Toronto advertising agency, J.J. Gibbons, but never explicitly connected with the party as such, the programs moved the

⁴ A special network was created by the Conservative Party's advertising agency consisting of its choice of CRBC and private stations.

enraged King to denounce the system which had allowed them to be aired and to suggest, both before and after the election that swept him to power, that certain changes would have to be made in the structure of the broadcasting authority. The Liberals, who had long been dissatisfied with the Radio Commission, now had the pretext they needed to proceed with its dismantling.

In March 1936, a month after the opening of the new Parliament, a committee of the House was appointed to assess the administration of the 1932 Act. In the meantime, Alan Plaunt had already been lobbying vigorously on behalf of the Radio League in an attempt to persuade Prime Minister King and the new Minister of Marine, C.D. Howe, of the wisdom of the League's scheme for a major reorganization of the broadcasting system. Howe asked Plaunt and his colleague Brooke Claxton to prepare a draft bill based on a detailed memorandum which had already been shown to Howe and King. At the same time, however, Howe instructed Commander Edwards, director of radio for the Department of Marine, to draft a separate bill. The draft which Edwards produced differed from Plaunt's bill in a number of respects. The most important of these was perhaps Edwards' proposal that the public broadcasting authority should come directly under the control of the responsible minister.

With Howe being less than sympathetic to the position of the Radio League, and the CAB enjoying considerable influence in Howe's department, it was questionable whether the radio committee would produce a report favorable to the cause of full public control and ownership, especially since Howe himself was the senior member of the report sub-committee. Nevertheless, this is what happened. The committee pronounced the CRBC unworkable and called for the appointment of a general manager and board of governors to operate within a corporation resembling the BBC. This corporation was to have wide discretionary powers of its own, including the authority to make recommendations to the minister on station licences and power increases before these were granted. Full nationalization of the system should be carried forward, with the corporation (which would be authorized to borrow up to \$500,000 from the government) retaining complete control over networks and private station broadcasts.

The Canadian Broadcasting Act, introduced in June 1936, was directly inspired by the radio committee's report and thus by the scheme elaborated by Plaunt and Claxton. It established the Canadian Broadcasting Corporation, which was to be headed by a nine-man board of governors appointed by the Governor-in-Council. Members were appointed for three years, paid an annual honorarium and could be removed for cause. Executive functions were to be carried out by a general manager and assistant general manager. The Corporation like the commission, had control over the formation of networks, the nature of all programs and advertising and political broadcasts. Applications relating to station

licences, frequencies and power increases had to be referred by the minister to the Corporation, which would make recommendations.

As an operating body, the Corporation had considerable freedom in building stations, producing and purchasing programs, hiring staff and acquiring property, although certain of these functions needed the approval of the Governor-in-Council. Most importantly, the full revenue generated from receiver licence fees was to be paid directly to the Corporation, which could also borrow considerable sums of money from the government.

The net effect of these provisions was to give the Corporation the very large degree of financial and operational autonomy which the advocates of full nationalization had always urged. The Opposition and most of the press cheered the 1936 Act, and a new era in Canadian broadcasting now began.

3

CBC: The First Fifteen Years

A Strong Board and its Political Problems

The 1936 Act was given royal assent on June 23, but did not come into force until November 2; in the meantime, new appointees had to be named to the two key positions in the Corporation, those of board chairman and general manager. The appointment of the latter officer in particular was far from a foregone conclusion, since the candidate supported by Plaunt and his colleagues — Gladstone Murray — was not the one favored by Howe, namely, Reginald Brophy, an NBC manager who was the enthusiastic choice of the private interests. Both sides therefore lobbied the government vigorously in the period up to the naming of the board on September 10.

The new board, it was now learned, was to be headed by Leonard Brockington, K.C., a British-born classicist and solicitor with a formidable reputation for his wit, oratory and strength of will. His appointment was greeted almost universally with praise and optimism. Brockington's vice-chairman was to be René Morin of Montréal, a notary, business executive and former Liberal member of Parliament. Other members of the board included Monseigneur Alexandre Vachon of Laval University, Mrs. Nellie McClung of Victoria, B.C., and Alan Plaunt, who in his capacity as President of the Canadian Radio League was perhaps the best informed and most dedicated member of the nine-man group. Nevertheless, most of Plaunt's new colleagues, and especially Brockington, were soon to provide evidence of their vision and

energy as caretakers of the broadcasting system, as well as of their steadfastness in the face of attempts at political interference.

At a preliminary session held less than two weeks after their appointment, the board met with Howe and agreed on certain working principles and basic policies. The Corporation's independence of the government was reaffirmed; the need for a technical survey and increased funding were discussed; and recommendations were put forward for the positions of general manager and assistant general manager. Those named were Gladstone Murray of the BBC and Dr. Augustin Frigon, former member of the Aird Commission. At early official meetings in November and December 1936, the board began to set its plans in motion, taking over the facilities of the CRBC, confirming the appointment of Murray and Frigon (to approving nods from the press) and agreeing on the details of a comprehensive three-year plan for technical development. This three-year plan, which was presented to the minister in January 1937, was of great significance, both for the national facilities it proposed to create and for the battle of wills it precipitated between Howe and Brockington.

The plan put to the Minister of Transport had as its main objective to extend coverage of the CBC's basic network to 84 per cent of the population of Canada, at an anticipated total cost over three years of \$2.2 million. In the board's view, the plan was clearly warranted by the poor state of reception across the country. During evening hours, in fact, half the population did not receive good network service, partly because in Toronto, Montréal and Alberta private stations had better frequencies and higher power than the CBC stations, and partly because super high-power stations in Cuba and Mexico (which were not party to the U.S.-Canada channel allocation agreement) caused heavy interference on clear channels occupied by Canada. The plan envisaged a comprehensive program of station acquisition and capital construction, notably the erection of 50-kw stations at Toronto and Montréal, and of two smaller stations in the Maritimes and Saskatchewan. What the board's policy entailed, in effect, was a holding action against the aggrandizement of the private sector, particularly in the matter of power increases; a new international treaty to which Cuba and Mexico would be parties; and a substantial government subsidy to the CBC, including an initial loan for construction of \$500,000.

However, misunderstandings on policy objectives had already begun on December 19, 1936, at a meeting between Howe and the board. Howe's response to the new three-year plan in January was to accuse the board of being interested in technical matters only, at the expense of programming, and of attempting to usurp the minister's policy-making powers. Howe's communication brought a strongly worded letter from Brockington, which refuted the minister's arguments and called for confirmation of the government's attitude towards public ownership of broadcasting and of

its confidence in the board. Howe, who seemed to have been caught off guard by Brockington's resolute attitude, backed down and gave grudging and qualified approval to the board's development scheme. In February, Gladstone Murray made a formal request for the monies needed to finance construction of the stations in Toronto, Montréal, the Maritimes and Saskatchewan. Howe approved the loan for the first two, but for the time being he wished to defer any decision on the latter two. Construction proceeded, and stations CBL Toronto and CBF Montréal became operational in late 1937.

Meanwhile, the board's position was being consolidated on two other fronts. In March and November of 1937, technical experts from Canada, the United States, Cuba and Mexico met in Havana to draw up an entirely new scheme for the allocation of radio frequencies in North America. Under the terms of the Havana agreement, Canada was placed in a much more favorable position vis-à-vis her neighbors to the south. Canada was now to occupy 14 clear, high-power channels, 41 regional channels and six low-power local channels. Although the treaty was not finally ratified until 1941, it was necessary that Canada move as quickly as possible to establish high-power (50-kw) stations to take up all the clear channels in question, and it was the board's express policy that these should be CBC stations exclusively. At the same time, Brockington and Plaunt were most anxious to persuade the government that it should limit private station power increases, as a general rule, to 1,000 watts and grant no new licences for stations with power exceeding this same figure. The wisdom of this policy was seen, and in October, the minister himself publicly committed the government to a freeze on private station power.

Before the year was out, it became clear that the Corporation would need about \$1 million more than its anticipated current income if it was to proceed with its basic development scheme, and in particular, finance a 50-kw station for Saskatchewan. An exchange of letters began with Howe, in one of which Murray asked for a second loan of \$500,000 and suggested that the receiver licence fee be raised to \$3. A \$3 fee now made more sense than ever: for one thing, it would provide almost all the extra funds the CBC needed in 1937-38, and for another, it seemed to have the endorsement of Canada's daily newspapers, who were ready to pounce on the CBC if it threatened their advertising revenues by pursuing a more aggressive commercial policy. In the matter of the \$3 fee, however, political considerations prevailed again, and it was raised only to \$2.50, effective April 1938. This was a move that succeeded in frustrating everyone: the press and the opposition assailed the government for putting through any increase at all, while the CBC had its financial position badly compromised.

Howe subsequently consented to the second loan of \$500,000,

but in July he suddenly balked at the idea of proceeding with the high-power stations for Western Canada (station CBA had already been approved for Sackville, N.B.). An angry chairman and his board fired off dispatches to Howe, as well as to Prime Minister King. Utterly convinced of the merits of their case and of the injustice of Howe's position, all threatened to resign immediately if their request was not granted as already promised. Howe was forced to capitulate to their demand, and in the spring of the following year, station CBK was opened at Watrous, Saskatchewan.

With construction of the high-power stations completed, the CBC's goal of 84 per cent coverage was realized and Canada now had a network service and a broadcasting system that were unique in the world. Several factors set the Canadian system apart from any other. Among these were the CBC's dual role as operator and regulator, and the affiliation arrangement whereby certain private stations acted as partners with the public agency in providing a program service to the nation. Another unusual feature of the national service under the CBC was the Corporation's commercial policy. The idea of incorporating sponsored programs, albeit with indirect advertising, into a schedule orientated to public service and sustaining programs, had been envisaged from the start by the Aird Commission and the Radio League. However, under the CRBC, both because of its network transmission contract with CN and CP (see p. 13 above) and its unwillingness to be too closely identified with commercialism, revenues from program sponsorship fell to a very low level. After the CBC was created and E.W. Weir was hired as its commercial manager, a much more aggressive commercial policy was pursued, and after 1937 this meant the inclusion of a good deal of American fare. Sponsored programs not only provided the Corporation with additional revenues; they also helped fill the long hours of the broadcasting day in an economical way,¹ and may have lured a certain number of listeners away from American stations once they realized they could hear many of their favorite U.S. shows on the Canadian network. Whatever the benefits for the CBC, the new commercial policy was bitterly opposed by the newspapers, the periodical press and the larger private stations. Though conditions would change over the years, the CBC's commercial activities and its relationship with the affiliates would continue to be a point of contention.

The Wartime Régime

By 1939, Canadian broadcasting seemed to be on a solid footing. In the public sector, Brockington and his board had managed,

¹ Filling commercial time-slots with sustaining programs would have been prohibitively expensive.

despite all the problems with Howe,² to create a strong working system, complete with the long awaited chain of high-power stations, a very favorable international channel agreement and programs which had caught the imagination of the Canadian people. The private sector, for its part, was becoming increasingly prosperous, as station advertising revenues from year to year attested. For the time being, CBC policy in the matter of wattage, networks and so on, as well as its marriage of convenience with the affiliates, guaranteed a certain equilibrium and kept private sector growth in check, as the 1936 Act had envisaged. After the outbreak of war, however, several developments intervened which threw the whole enterprise of the national service into question. Some of these — such as the problems of censorship, ministerial control and political broadcasting — were directly related to Canada's involvement in the war. Others — the departure of Brockington, a series of bitter power struggles surrounding the CBC board and the accelerating ambitions of the CAB — had already cropped up when the first shots were fired in Europe.

Some months before Brockington's term as chairman was due to expire on November 2, Alan Plaunt agreed that he and a consulting chartered accountant, James Thompson, would undertake a thorough investigation on the board's behalf of CBC financing, administration and staffing. Plaunt found that the Corporation needed an administrative overhaul and a fresh infusion of production talent, and that Gladstone Murray was no longer discharging his duties as general manager in a competent and responsible fashion. Murray, in fact, was already beginning to lose the confidence of the board because of his handling of certain financial matters. Moreover, Plaunt and Murray seemed to be in serious disagreement politically as well. While Plaunt was determined to see the independence of the board preserved even in wartime, Murray was willing to see its independence compromised in order to serve the nation and the Empire, and he clearly considered Plaunt to be unpatriotic.

During September, Howe informed the CBC governors that Cabinet wished to see them replaced by a small executive committee which would take direction from the minister himself. Howe's attempt to usurp the functions of the board was successfully resisted, but in the months that followed, Plaunt found himself more and more estranged from his fellow governors, and more and more pessimistic about their good faith. By November, Brockington, Plaunt's staunchest ally, was gone, and Plaunt himself was seriously ill. Repeated efforts were made to have the board take action on the Plaunt and Thompson reports, which proposed a number of sweeping changes in the CBC's organization relating

2 Though again, not with King, who like Bennett before him had championed the cause of public ownership and frequently intervened in the board's favor.

to the location of the head office, duties of the general manager and his assistant, budget allocations and so on. Plaunt had staked his whole reputation on these recommendations, and after it became clear that the board was not prepared to consider them seriously, let alone implement them, he tendered his resignation (on August 30, 1940). Plaunt was never reconciled with Murray, a bitter irony considering that he had campaigned so vigorously to have Murray appointed in the first place. A year later Plaunt was dead at the age of 37.

René Morin, meanwhile, had taken over from Brockington as chairman of the board. He had been replaced as vice-chairman by N.L. Nathanson, a board member who was president of Famous Players Corporation and whose sympathies, like Morin's, lay more with private, than public, enterprises. In early 1941, a few months after Plaunt's resignation, Morin and the board had Murray's authority curtailed and his expense allowances reduced; nevertheless, he did not otherwise seem to have lost their confidence and he remained in his post until the fall of the next year. At about the same time, the government moved to reorganize ministerial responsibility for broadcasting. It was to come largely, though not exclusively, under the Department of National War Services, while technical activities of the radio division of the Department of Transport remained with Howe, who was now Minister of Munitions and Supply.

The Opposition, who were persuaded that both the board and the Cabinet had lost their grip on the CBC and that clear lines of responsibility had to be restored, called repeatedly in the 1941 session for a parliamentary investigation. Despite the fact that many of the CBC's troubles were being debated publicly, Howe managed to stave off the demands for an investigation until the spring of 1942, when a select committee on radio broadcasting began hearings. Whereas the committees of 1938 and 1939 had given a resounding vote of confidence to Brockington and his board, the 1942 committee was highly critical of both the board and management of the CBC. The board responded quickly to the criticisms by demoting Murray to a position in Toronto and replacing him as general manager with Dr. J.S. Thomson of the University of Saskatchewan, who had occupied a position as CBC governor for some time. Although in the course of the next year, Thomson was able to inject more variety and even controversy into the programming schedules, to the satisfaction of almost everyone but the very partisan newspapers, he was responsible for an error in judgment in late 1942 which was to have a serious and lasting effect on the Conservative Party's attitude to the CBC.

During December, Arthur Meighen, who was stepping down as leader of his party, was to address the Conservative leadership convention in Winnipeg, and the party asked the CBC for permission to broadcast a talk by Meighen over the national network to mark the occasion. After consulting the board, Dr. Thomson

turned down the request with the explanation that it was CBC policy during the war not to allow partisan broadcasts outside election times. Conservative reaction was predictably swift and hostile, and the CBC was accused of being a tool of the King government. This was not of course the first time that the public broadcasting authority had been taken to task by members of the Conservative Party; the difference now was that the condemnation was addressed to the whole structure of broadcasting, not just the CBC, and was seen to be a reaction not of individuals, but of the party itself.

Up to 1942 there had been few important regulatory changes in the system,³ and the terms of the running debate between the public authority and the private sector had not changed appreciably either. At the radio committee hearings of that year, however, Glen Bannerman, president of the CAB, made much of an ungarded remark by J.T. Thorson, Minister of National War Services, to the effect that the private stations were the competitor of the Corporation. This was just the opening Bannerman needed. Arguing that it was patently unjust to have the CBC regulate and make the rules for its competitor, Bannerman called for the creation of a separate, impartial regulator resembling the tribunal that oversaw the railways. Though Bannerman failed to win any satisfaction from the 1942 committee on this point, or any other important point of contention, he did give currency to an idea that was crucial in the CAB's struggle for aggrandizement. It did not seem to matter that the CBC was not in any real sense a competitor of the private stations, or that the notion of a separate regulator was inimical to the very essence of the Canadian system: despite this, the bogey of the CBC as "cop and competitor" caught on, and became the principal rationale in the CAB's fight for a separate regulator. Moreover, in 1943 and 1944, statements made by Joseph Sedgwick, counsel for the CAB; an influential editorial by Victor Sifton, publisher of the *Winnipeg Free Press*; and critical remarks by certain Conservative politicians, added fuel to the fire. All cast the Canadian system into a rather new mold, one conceived as a dual system in which the public and private sectors were more or less equal and competitive elements, and which could only be regulated with any fairness by a board operating separately from the CBC.

By the end of the war, the CBC had many significant programming achievements behind it, some, but by no means all, connected with the war effort. It also had a vote of confidence from the parliamentary committees of 1942, 1943 and 1944, if not for the board and management of the CBC itself, at least for the single national system which they claimed to serve. But by now, the ground of the debate with the large, independent broadcasters

3 In 1939, the CAB made a formal request before the CBC for permission to establish a private network, but the request was denied.

had shifted significantly, and even as the CBC itself seemed to be on the rise, the national service was already in decline.

The Postwar Period: Dunton Takes Charge

The late forties were marked by renewed efforts on the part of both the CBC and the private sector to consolidate their position in the broadcasting system. The postwar period began auspiciously for the CBC with the appointment in November 1945 of A. Davidson Dunton as the first full-time, salaried chairman of the board. Although he was relatively young (33), he commanded respect and did much to restore confidence in the CBC, as well as boost morale among its employees. With the war over, Dunton and his board were anxious to get on with the job of building up the service and extending coverage. One of their first major undertakings, therefore, was to apply in March 1946 for recovery of three of the class 1A (clear) channels from those private stations which currently occupied them — CFRB Toronto, CKY Winnipeg and CFCN Calgary. The frequencies in question were among the six allotted to Canada under the Havana Treaty that could be exploited with unlimited transmission power.

Now, it was well-established CBC policy that *all* high-power radio stations in Canada should belong to its national service, and it was a provision of the treaty that stations intended for use on the allotted channels be under construction by 1949. Furthermore, every parliamentary radio committee — including that of 1946 — consistently upheld the principle that no station owner had a vested interest or proprietary right in the channel which he occupied; he did so temporarily and on the basis of an alienable privilege. In spite of all this, when the proposal to reallocate the three stations was announced, station owners, the CAB and the Conservative press greeted the news with virulent and alarmist denunciations which heralded the end of free speech and free enterprise. So determined were these stations to keep a grip on their frequencies that two of them successfully resisted reallocation for the next two years. Although the reallocations were finally put through, there was a corresponding concession made by the CBC board in 1948 which amounted to a radical yet unacknowledged change of policy. When station CFRB was reassigned to a different and less desirable frequency, it was given permission to increase its power to 50,000 watts, as were stations CKLW Windsor and CKAC Montréal. The integrity of the CBC's system had thus been compromised in one regrettable stroke.⁴

At about the same time, the board was busy trying to shore up the national service in other parts of the country. Thus, 50-kw stations were opened in Manitoba and Alberta, and a one-kw station was opened in Sydney, Nova Scotia. The following year,

1949, the CBC took over Newfoundland's public broadcasting facilities, including a 10-kw station at St. John's. But the Corporation was fighting a losing battle. The high-power chain, which was now complete, offered too little too late. CBC facilities suffered from false economies, obsolescence and interference originating with the many new and powerful private stations scattered across North America.

Meanwhile, the struggle over the ultimate purposes of the broadcasting system had not abated. It reached a peak in 1947 when, in conjunction with the hearings of the parliamentary committee, the CAB launched an all-out publicity campaign to win the support not merely of influential citizens and politicians, but of the general public. Radio stations and newspapers were filled with promotional announcements and editorials calling for a complete overhaul of the Broadcasting Act, and in particular for the withdrawal of regulatory functions from the CBC. Once again, the private operators complained to the committee about "unfair competition" from the CBC and, once again, failed to cite specific grievances in support of their complaints.

The 1947 parliamentary committee was not particularly sympathetic to the representations of the CAB and its allies, recognizing, first, that the CBC did not really compete with the independent stations and, second, that most of these latter continued to enjoy a healthy rate of return on their investments. Nevertheless, if the committee gave the CAB very little satisfaction in 1947, the Conservative Party had some consolation to offer. At a convention that same year, the party gave official sanction to what some individual Conservatives had long been proposing: that a separate tribunal be established to regulate both the CBC and the private stations, and that the receiver licence fee be abolished altogether. It would not be too many years before the goals of the Conservative Party and their supporters would be realized.

For the time being, however, little had been resolved about the future of the system, despite more or less sincere endorsements of the intent of the 1936 Act from Parliament and its committees. With the sudden appearance of television stations all over the United States, and the availability of U.S. signals in Canada by 1948, it became clear that Canada was moving into a new broadcasting era and might have to re-examine the roles played by both the CBC and its "competitors" in the private sector.

4 Alphonse Ouimet has pointed out, however, that these power increases may have been inevitable and even in the national interest, since a number of high-power U.S. stations threatened to pre-empt channels shared with Canadian stations. The power increases granted to certain private operators thus served to protect Canada's airwaves at a time when the CBC could not afford the high cost of major power increases for its own stations. (Ouimet interview with the writer, Pointe-Claire, Québec, October 3, 1978.)

4

The Fifties: Decade of the Royal Commissions

The Massey Commission

The Royal Commission on National Development in the Arts, Letters and Sciences (the Massey Commission) was appointed by the government of Louis St-Laurent in April 1949, with a mandate to conduct a far-ranging inquiry into the activities of a number of cultural institutions and functions. It had one very specific and essential task to perform which is of concern here, namely, to examine and make recommendations about "the principles upon which the policy of Canada should be based in the fields of radio and television broadcasting" (*Report*, p. xvii). The chairman was to be the Rt. Hon. Vincent Massey, chancellor of the University of Toronto, while the other commissioners included Dr. Norman A.M. MacKenzie, president of the University of British Columbia; the Most Reverend Georges-Henri Lévesque, dean of social sciences at Laval University; Dr. Hilda Neatby, professor of history at the University of Saskatchewan; and Dr. Arthur Surveyer, a consulting engineer of the Montréal firm Surveyer, Nenniger and Chênevert. Four of the five commissioners therefore held senior university posts, and the business community was quick to criticize the appointments for their strong academic bias. However, when it came time to set down recommendations on broadcasting policy, Dr. Surveyer came forward as something of a champion of the private interests, and wrote a dissenting opinion which appears in the report as his "Reservations and Observations" (pp. 384 ff.).

The commission took nearly two years to produce its final report (submitted in May 1951), and over this period heard representations from a wide variety of interest groups. They held 224 meetings, heard 1200 witnesses and received 462 briefs, including submissions from 13 federal government institutions, seven provincial governments,¹ 87 national organizations, 262 local bodies and 35 private commercial radio stations (p. 8). Despite two or three significant criticisms of the CBC, the commissioners wrote that "of the more than 170 voluntary organizations which discussed radio broadcasting in our public sessions the great majority expressed approval of the national system." They were also given the impression that the "present national system has succeeded to a remarkable degree in doing exactly what the writers of [the Aird Report] wanted it to do" (p. 28). As far as particular programming achievements were concerned, there was a fairly sharp division of opinion over CBC sustaining programs on the one hand and the local programs of private stations on the other. Canadians were "obviously proud" of the former (with some reservations), while the latter were "severely criticized" by many groups: commercialism "both over the CBC and over private stations was deplored" (p. 36). The commissioners praised the national system for keeping constantly in view "its three objectives for broadcasting in Canada", namely, "an adequate coverage of the entire population, opportunities for Canadian talent and for Canadian self-expression generally, and successful resistance to the absorption of Canada into the general cultural pattern of the United States" (pp. 40-41). On the other hand, the CBC was taken to task for two sins of omission whose importance was perhaps not fully appreciated at the time. These were the failure to exercise "its responsibilities of control" over independent stations (p. 40), and the "inadequate information service" and "reticence" of the CBC, which had resulted in "a widespread ignorance of an essential national service" (p. 41).

This was the essence of the commission's preliminary findings in Part I of their report; in Part II, their task was to make specific assessments and recommendations. Their general conclusion was that in Canada, "the principle that radio broadcasting is a public trust has been followed consistently for twenty years"; it was a principle upheld by "ten Special Committees of the House of Commons and by the opinion of disinterested radio listeners" (p. 279). The national system had "exceeded all reasonable expectations" and become "a source of pride and gratification to the groups most representative of Canadian listeners" (pp. 279-80). However, the Canadian system had a "striking peculiarity" (p. 281) which raised serious questions about its future, namely, the con-

1 Québec boycotted the commission on the grounds that it had no competence to examine the educational system, a provincial domain under the BNA Act.

tinued existence of private commercial stations alongside those which were publicly owned. While recognizing that these stations had won a place in the system and even performed certain useful functions, the Commission could not overlook the fact that the Canadian Association of Broadcasters was again recommending changes in the CBC's powers which would drastically alter the nature of the whole broadcasting system. As they had done in the past, the CAB (whose membership now comprised 93 of 119 private stations), as well as individual station representatives, protested against being regulated by the Board of Governors of the CBC, a public corporation which was seen to be their "commercial rival", describing it as "at one and the same time competitor, regulator, prosecutor, jury and judge (p. 282). The CAB therefore expressed the wish that an amended broadcasting act (a) acknowledge that there was not a single national system but two; and (b) establish a separate and completely impartial regulatory tribunal "not associated in any way with the operation of the Canadian Broadcasting Corporation" (p. 283).

The commissioners (excepting Dr. Surveyer) rejected the CAB's proposals and their rationale out of hand. They wrote that "Canadian radio broadcasting legislation contemplates and effectively provides for one national system; that the private stations have been licensed only because they can play a useful part within that system; and that the CBC control of . . . matters related to radio broadcasting, is a proper expression of the power of the CBC to exercise control over all radio broadcasting policies and programs in Canada". They went on to argue that the "principal grievance of the private broadcasters is based . . . on a false assumption that broadcasting in Canada is an industry. Broadcasting in Canada, in our view, is a public service directed and controlled in the public interest by a body responsible to Parliament" (p. 283). Finally, they said, private broadcasters

have no civil right to broadcast or any property rights in broadcasting. They have been granted in the national interest a privilege over their fellow-citizens, and they now base their claim for equality with their 'business rivals' on the abundant material rewards which they have been able to reap from this privilege. The statement that the Board of Governors of the Canadian Broadcasting Corporation is at once their judge and their business rival implies a view of the national system which has no foundation in law, and which has never been accepted by parliamentary committees or by the general public. (p. 284)

The commission then went on to provide 21 specific recommendations on radio broadcasting, under three general headings: Control and Direction of Broadcasting in Canada, The Financial

Problem [of the CBC] and Programmes (pp. 285-300). The very first dealt with the proposals for a separate regulator. "We have considered these proposals", ran the preamble,

and find that they would either divide and destroy, or merely duplicate the present system of national control. Legislation to set up a separate regulatory body would alter the present national system and would result in two independent groups of radio broadcasting stations, one public and one private. The CBC would no longer have the control over all clear channels considered necessary to ensure national coverage . . . It is conceivable that some who might favour a separate regulatory body assume that such an authority would have the duty of securing the necessary channels and sufficient outlets for national sustaining programmes. Such an arrangement would be completely inconsistent with the notion of a separate regulatory body holding the balance between public and private stations . . . It would, in fact, parallel in power and responsibility the present Board of Governors of the CBC. (pp. 285-86)

The commission therefore recommended that "control of the national broadcasting system continue to be vested in a single body responsible to Parliament; that the Canadian Broadcasting Corporation as now constituted be that authority and continue to provide directly by its operations and indirectly by its control of the operations of others a national radio broadcasting service free from partisan influence" (p. 287).

Several other important recommendations appeared in this section. No private radio station should operate in Canada as part of a network without the permission of the Canadian Broadcasting Corporation, although private operators should be granted the right of appeal from any decision of the CBC board. It was suggested, furthermore, that licences be granted for a five-year term, to give operators greater security of tenure. The CBC itself should refuse all local advertising, eliminate some of the less desirable commercial programs and revise its by-laws and regulations.

The other major recommendations came in the financial section (p. 295). Here the commission suggested not only that the annual licence fee for radio receiving sets be maintained, but that a five-year statutory grant be authorized which, in any given fiscal year, would bring the total revenues of the Corporation up to an amount equivalent to one dollar per head of population.² The commissioners specifically rejected abolition of the licence

2 Less, as the report pointed out, than what Canadians spent each year on chewing gum (p. 293).

fee, as then proposed by George Drew and the Conservative Party, and considered there was "no solution to the financial problem of the CBC except in additional support from public funds" (p. 294). The recommendations on radio broadcasting ended with suggestions concerning the development of Canadian talent, and ways to keep the public better informed of the CBC's plans and methods of operation.

Six months after receiving the Massey Report, the Liberal government introduced an act to amend the Canadian Broadcasting Act at the new session of Parliament. The act endorsed nearly all that the commission had recommended in broadcasting policy and confirmed the CBC's dominant place in the system as operator and regulator. The government's endorsement was backed up by a stipulation that the Corporation receive an annual grant of \$6.25 million over a five-year period. The bill and the principles it supported were attacked in the House by the Conservatives, who wanted the CBC kept accountable by annual appropriations and a separate regulator, and made much reference (as did members from other parties) to the CBC's "antireligious" broadcasting.³ The bill was also subjected to an onslaught from the CAB when it went to the House Broadcasting Committee, and again in the upper chamber from senators sympathetic to the private operators. But the bill survived essentially intact and the CBC, it appeared, could turn with renewed confidence to a new problem of monumental technical and financial proportions — that of television broadcasting.

The Advent of Television

By the time the Massey Commission submitted its report in 1951, the Liberal government had already declared an interim policy on the development and control of television in Canada, and the CBC itself was proceeding with plans for the creation of a national TV service. Some informed Canadians were reluctant to see TV developed in this country too quickly, partly because of the enormous costs involved. However, by 1949 great pressure was being exerted on the government from two sides: first, from Canadian entrepreneurs, many of them seasoned radio station operators, who knew that the television business was likely to yield enormous profits and who wanted to see private licences granted as quickly as possible; and second, from U.S. border stations, whose numbers had been growing by leaps and bounds, and whose programming threatened to pre-empt a large and curious Canadian audience which had no domestic service of its own.⁴ There was pressure too from spokesmen for the Canadian

3 An allusion to CBC radio talks by humanist thinkers such as Anna Freud and Bertrand Russell.

4 On the eve of the inauguration of service in Montréal and Toronto (September 1952), there were some 146,000 TV sets in Canadian homes.

electronics industry, which stood to gain much from the sale of receivers.

Television, however, was fraught with problems, as the U.S. experience with technical development and channel allocation had clearly indicated. The TV spectrum was much more limited than that of radio, and the new medium was reckoned to be anything up to ten times more costly. In Canada particularly, with its very small population scattered over such great distances, financing would require the appropriation of public funds on a large scale — that is, if Canadian stations were not simply to become outlets for the U.S. networks and mere adjuncts of the advertising industry. The major principle of the 1949 TV policy, therefore, was that licensing, networking and distribution should be strictly controlled by the CBC board and, no less important, that the CBC itself should take the initiative in the establishment of TV studios and transmitters. This was a policy endorsed by the 1950 House Committee on Broadcasting, as well as by the Massey Commission in its report. The commission, in fact, made nine specific recommendations concerning television (*Report*, pp. 301-05). These included the following: that direction and control of television broadcasting continue to be vested in the CBC; that the CBC proceed with plans for the production of programs and for national coverage; that no private stations be licensed until the CBC had national television programs available; that the capital costs of the national system be provided from parliamentary grants, but that program and operating costs be provided at least partly from receiver licence fees and commercial revenues; and that the whole subject of television broadcasting in Canada be reconsidered by an independent body not later than three years after commencement of regular Canadian television broadcasting.⁵

Thus, the CBC was instructed by the government in 1949 to proceed with construction of stations in Montréal and Toronto, with a target date for opening of September 1951. Once again, however, the government's professed enthusiasm for the project and its public commitment to principles of national purpose were not borne out by a willingness to pay for what was being promised. When the board informed the government that it would require a loan of \$5.5 million for television development, the government responded with an offer of \$4 million. In December 1949, after the election which returned the Liberals with a comfortable majority, a loan of \$4.5 million was approved, but this was still well short of what the CBC had requested — and the responsible minister himself, Dr. McCann, warned the House that the introduction of television would cost the treasury considerably more. At the same time, the Liberals would make no commitment on a television receiver licence fee, and were not considering a

⁵ It was this last recommendation that occasioned appointment of the Fowler Royal Commission on Broadcasting in 1955 (see next section, pp. 36-41).

raise in the \$2.50 radio fee. The CBC was therefore undertaking a complex and expensive program of technical development without any assurances from the government that the necessary funds would be forthcoming. Although in June 1951 the government agreed to a further loan of \$1.5 million and in November the House approved a series of important amendments to the Broadcasting Act which greatly strengthened the CBC's position, the opening of the Montréal and Toronto stations had now been postponed by a full year. Money was not the only factor in this delay: a shortage of steel and the recalcitrant attitude of Maurice Duplessis, the Premier of Québec, played their part as well. Nevertheless, when CBFT Montréal and CBLT Toronto finally began broadcasting in September 1952, it emerged that their production facilities and, even more significant, their coverage, had been seriously compromised by the need to keep within the government's unrealistic allotment of funds.⁶ The CBC's ability to "compete" with the private sector was impaired even before private TV station licences were being granted.

Three months later the government issued another statement of policy on television. CBC stations were to be built at Vancouver, Winnipeg and Halifax (a station for Ottawa had already been approved); more significantly, however, the CBC board was now prepared to hear applications for private television station licences. As with radio, the government was concerned to have coverage extended as quickly as possible. This could best be accomplished by encouraging development in both public and private sectors, and providing for co-operation between them in the distribution of a national service. Such development was to proceed on a "single-station" basis; that is, no one community was to be served locally by more than one Canadian station until there was adequate service across the country. Responding to critics who condemned them for their apparent desire to deprive Canadians of certain kinds of programming, the Liberals thus ruled out the possibility of a public monopoly in television development and paved the way for very rapid growth in the private sector. The first private station opened in October 1953 at Sudbury; one and a half years later (in March 1955), there were seven CBC stations and 19 private stations; by March 1956, the figures were eight and 24 stations respectively, and by March 1958, on the eve of a new broadcasting act, there were still only eight CBC stations, but 36 private stations. Moreover, despite all assurances to the contrary, the government had allowed private operators — mostly associated with the radio and newspaper interests — to establish stations in six provincial capitals long before the CBC.

6 At CBLT, for example, a 500-foot antenna was erected adjacent to the station itself in downtown Toronto; far better coverage would have been afforded by erection of a somewhat taller antenna on high ground in the city outskirts.

In one very practical sense, then, the CBC by 1955 had lost its dominant position in the broadcasting system. True, a good national service was being provided through co-operation between the CBC and affiliated private stations, in both radio and television. It was also true that the first four years of television saw remarkably harmonious relationships between the rival elements of the system. Furthermore, the CBC was now under strong and able leadership. Davidson Dunton had been confirmed for a 10-year term as chairman of the CBC board in 1952, and in January 1953, J. Alphonse Quimet was appointed CBC general manager after many years of distinguished service as both engineer and administrator, culminating in the creation of the television service, for which he was largely responsible. But in 1953, there was another development which in the long run was to have a detrimental effect on the ability of the CBC to play its role in the broadcasting system. This was the government's decision to abolish receiver licence fees altogether and compensate for the loss of revenue by introducing a 15 per cent excise tax on receivers and parts, to be paid over to the CBC. This was not only a decision of great timidity, it was also extraordinarily short-sighted, since that in a few years' time the dramatic rise in the sale of TV sets would peak and cause an equally dramatic and irrevocable drop in revenues to the CBC. This is in fact precisely what happened. As the TV boom reached its peak in 1955-56, however, the Fowler Commission was already re-examining the perennial problems of the role and financing of the CBC.

The Fowler Commission

The Royal Commission on Broadcasting appointed in December 1955 had a very different mandate from that of the Massey Commission, upon whose specific recommendation it was established. It was not merely that the Massey Commission had examined a much wider range of Canadian culture than would its successor, but also that the Fowler Commission's study of broadcasting was to focus primarily on one particular issue, namely, the financing of the CBC.⁷ Furthermore, the backgrounds and sympathies of the new commissioners — Robert Fowler, Edmond Turcotte and James Stewart — were very different from those of Vincent Massey and his colleagues. Whereas the latter were men of letters, the former were men of business, or had substantial business interests (Stewart, like Sir John Aird before him, was president of the Canadian Bank of Commerce), while two of them, Fowler and Turcotte, were well known Liberals. In light of this, two features of the report submitted in 1957 are

⁷ Four of Fowler's six specific terms of reference made explicit mention of CBC finances.

striking: first, that Fowler and his colleagues felt compelled to conduct a much more searching inquiry than had been intended and were called upon to assess many of the same general problems that had been of concern to Massey;⁸ and second, that Fowler's conclusions were substantially the same as those reached in 1951, even if there were new departures in his recommendations.

In their report, the Fowler commissioners summed up their opening assessment of the "problem" (chapter I), with the remark that there had been a failure "to state the objectives and purposes of our broadcasting system clearly and simply" (p. 13). They also noted that the "governing statutes are far from clear and the fundamental nature of the system has remained open to endless controversy and debate." They therefore ended the chapter with a brief statement of four basic assumptions concerning the purposes of the Canadian broadcasting system. It should be recognized by everyone, they wrote,

(1) that the mixed system of public and private ownership is here to stay;

(2) that the state agency may grow . . . but its functions are not to be extended to do the whole job of providing radio and television services to Canadians;

(3) that private stations should individually be required to justify the continued grant of a valuable public franchise . . . but private operators should stop worrying about the bogey of nationalization . . . and

(4) that, for the foreseeable future, we will continue to have a single broadcasting system in which all Canadian radio and television stations, public and private, present and future, will be integral parts, regulated and controlled by an agency representing the public interest and responsible to Parliament. (p. 13)

Though in itself rather vague and incomplete, this statement of principles amounted to a firm rejection of the arguments and proposals put to the commission by the CAB (temporarily the CARTB) in the spring, and again in the fall of 1956, at scheduled public hearings. The private broadcasters, it appears, were not discouraged by the recommendations of the Massey Commission, the findings of successive parliamentary committees or the statements of Dr. McCann, the responsible minister, to the effect that Canada had a single system in which the CBC ought to remain the regulator and dominant element. Once again, the CAB made a concerted effort to have the whole regulatory and structural

8 On page 2 of their report, the Fowler commissioners expressed "considerable regret" that theirs could not be a short report.

nature of the system changed, and in particular to have the commission recommend creation of a separate regulatory board. Three arguments were advanced against the current arrangements: an operating body should not regulate and vice versa; an operating body should not regulate a competitor; and executive, legislative and judicial functions should not be combined in one body. As in the past, however, these reasons of principle for creating a separate regulator were not supported by reasons of substance. No evidence was adduced of any real grievance, hardship or loss of profits suffered at the hands of the CBC, despite persistent questioning by the commissioners, nor was the complaint of "competition" from the CBC made any more convincing. For all that the private stations' relations with the CBC board may have been harmonious, and their profits secure, the CAB was still insistent that all regulatory functions should go to a tribunal modelled after the U.S. Federal Communications Commission (FCC) and responsible not to Parliament, but to the Cabinet.

Dunton and Ouimet, speaking on behalf of the CBC, provided the commission with a general statement on the nature of the single system and the CBC's role within it. The essential feature of this system was that it comprised public and private elements which co-operated under the direction of the CBC board in the provision of a national service and the achievement of certain national goals. Furthermore, *all* stations were by definition part of this system. Canada's geography, the size of her population and her two official languages, as well as the presence of her American neighbor, made this co-operation imperative; in different circumstances the CBC might have been quite unnecessary. This co-operation presupposed a mutual obligation (the CBC had to provide sustaining programs and the private affiliates had to carry them), and at the same time conferred benefits on both parties. In order to ensure that the system functioned efficiently — given that neither strictly public nor strictly private support alone could sustain a service — the CBC had to have co-ordinating authority and access to the various stations comprising the system. A separate regulator would remove this authority, but leave the CBC with the responsibility for providing a national service, a situation which, as Dunton pointed out, would be quite untenable. Dunton also rejected the CAB's basic rationale for the creation of a separate regulator, namely, that the CBC was in some sense the competitor of the private broadcasters. This was not true of the radio service, because of the need on both sides for co-operation. And it was emphatically not true of television, since for the time being second stations were not being permitted in any given locality.

In a brief section of their report entitled "The Proposal for an Independent Regulatory Board" (pp. 130-36), the Fowler Commission upheld the position of the CBC in terms very reminiscent of those employed by the Massey Commission. The commissioners

hoped that "this long and frequently bitter argument about a separate regulatory body" would now come to an end. Nevertheless, Fowler and his colleagues were not entirely happy with the status quo, and were particularly critical of the administrative structure of the CBC and of the confusion in the public mind over the role of the board and its chairman. This shortcoming (for which the CRBC had been sharply criticized more than twenty years before) could be remedied, Fowler suggested, by abolishing the CBC board and replacing it with a Board of Broadcast Governors which would no longer be legally coextensive with the Corporation itself (see *Report*, especially pp. 92-100). The new board would perform many of the same functions as the current board, but it would be removed from day-to-day management of the CBC; be expected to concentrate on matters of policy; and, in the eyes of the public, constitute a rather more independent regulator, not so closely identified with the Corporation and its functions as an operator. Fowler was at pains to point out that his scheme was not tantamount to proposing a two-board system of the sort the CAB had long battled for.

After a discussion of this and several other problems, the commission came to the "main objective and culminating point of [their] whole inquiry" — namely, the question of CBC finances (pp. 247 ff.). The commissioners, and the majority of witnesses appearing at public hearings, were generally satisfied with programming of the CBC and the management of its affairs, although the Corporation was criticized in the report for two major lapses: the failure to publicize its activities and make its goals and structure better understood by the Canadian people; and the failure to create and enforce rigorous standards of performance to be met by private radio and television stations. The commissioners recognized, however, that the chief problem facing the CBC in the foreseeable future — particularly in the light of recent history — was that of securing adequate funding, not merely to maintain the national service as it then was, but also to meet the accelerating costs of extending and upgrading the television service. Consequently, much care and professional expertise was devoted by the commission to financial analysis.

Working with the advice of a specially appointed financial consultant, Guy E. Hoult, the commissioners first of all drew a sharp distinction between requirements for capital expenditures and those for operating expenditures. Their recommendation was that parliamentary control be exercised over the first of these by means of an annual debate on estimates, but that the monies be provided on the basis of outright grants, not loans, as the recent practice had been (despite Massey's recommendation to the contrary). They then calculated in their forecasts that capital requirements would be almost balanced by receipts from the 15 per cent excise tax on receivers and parts. It was therefore pro-

posed that these receipts be specifically set aside for the CBC's capital program.

Operating costs presented a problem of much greater proportions. Here the report emphasized that a formula must be found which did not leave the CBC beholden to the government of the day or subject to the political vicissitudes of parliamentary debates: in this respect its whole independence as a public broadcasting authority was at stake. On the basis of detailed and remarkably accurate forecasts for the 1957-63 period, the commission thus recommended a funding formula based on a fixed percentage (a fraction of one per cent) of a specific component in the gross national product (GNP), namely "Personal Expenditure on Consumer Goods and Services". This would relate CBC funding to growth of the population and expansion of the economy. In addition, Fowler urged that this formula be applied over a five-year statutory period, in order to stabilize the CBC's revenues and ensure its independence. The financial proposals contained in the body of the report were backed up by a lengthy analysis prepared by Hault and appearing as Appendix XII (pp. 423-511).

The Fowler Report ended with a very terse chapter (pp. 287-88) in which the commissioners affirmed that Canada had "a good broadcasting system", one based on a concept — mixed ownership — of which they approved and in which the CBC was the "central factor". In other words, they were largely endorsing the system which had been in existence since the creation of the CBC in 1936, based on principles as old as the Aird Report. Indeed, to emphasize this continuity in the national purposes of the broadcasting system, the Fowler Commission, at another point in their report (pp. 248-50), quoted comments from 20 different sources — Sir John Aird, R.B. Bennett, C.D. Howe, most of the parliamentary committees, the Massey Commission — in which explicit and whole-hearted support was expressed for the system contemplated by the 1936 Act. It was true that the Fowler Commission was in some ways critical of the CBC. It is also true that certain of their recommendations were not well received, while at least one — that the CBC should pursue a more aggressive commercial policy — probably had detrimental long-term effects on CBC programming. But the basic stance of the CBC was vindicated and some eminently sensible suggestions for improving the system were made. At the same time, the CAB's position had been discredited. The CAB membership itself had been divided on several issues, and three key members — CJCH Halifax, CFPL London and CKVL Verdun — had publicly broken ranks with the CAB. The report accused the CAB of "baiting" the CBC (p. 138) and, somewhat indirectly, of employing what was described as "the falsely doctrinaire, the emotional appeal [and] the emptiness of mere verbalism" (p. 139).

With the accolades which greeted the Fowler Report in the spring of 1957, it might have been thought that Canadians had at

last reached a consensus on their broadcasting system. But this was not so, for there were new forces at work in the system which Fowler had not entirely understood and taken into account, not least among them pressure for second television stations and a private television network.

5

The End of the Single System

The Diefenbaker Option

When the Progressive Conservatives were returned to power in March 1958 with the largest federal majority in Canadian history, there were signs that a sweeping change was in the offing for the broadcasting system. John Diefenbaker, who had assumed the party leadership in December 1956, had for years been expressing his dissatisfaction with the status quo in broadcasting, not least because through its entire history (ever since 1936) the CBC had operated under Liberal governments. As early as 1944, Diefenbaker remarked on the floor of the House that a "new type of national authority" was needed to control broadcasting in Canada, adding that the CBC as then constituted was "both litigant and judge, both investigator and jury . . . [or] as someone has said, a cop and a competitor" (*Debates*, February 25). The phrase "cop and competitor" was one that would come back to haunt the CBC through the 1950s.

With the 1958 campaign in full swing, Diefenbaker chose a speech at Kenora, Ontario, to make the following keynote statement of policy:

We intend to bring in legislation for a semi-judicial body similar to the Board of Transport Commissioners so that radio and television will have that justice which is the essence of our system. The time is long overdue for private stations that their cases shall be judged by an inde-

pendent body, instead of as in the past by those in national competition acting as both judge and jury.¹

Diefenbaker's pronouncement was highly significant for both what it said and what it did not say. First of all, his use of the railway analogy and his allusion to the CBC as a competitor of the private operators were both entirely out of keeping with the conclusions of the Fowler Commission, whose report had been turned over to the government less than a year previously. In addition, Diefenbaker's remarks were a departure from the views expressed for many years by successive cabinets and special committees. In the second place, Diefenbaker's emphasis, or choice of issues, was significant in itself. Merely by singling out the "problem" of the regulatory structure of broadcasting as that most in need of federal attention, the prime minister was ensuring that the terms of any future debate, parliamentary or otherwise, would favor the stand of the CAB.

The new government was of course perfectly at liberty to revise a broadcasting statute that was by then 22 years old, and in certain respects, out of date. Diefenbaker could, nevertheless, have chosen to draw attention to the financial crisis being experienced by the CBC or to the uneasy balance between domestic program production and the distribution of U.S. programming. Instead, he chose to campaign on what everyone except the CAB regarded as a dead issue — that of separate regulation. Three and a half years later, Prime Minister Diefenbaker, would claim that thanks to the new regulator, "order [had been] brought out of confusion and complaint, in the disagreements bound to arise between public and private systems." This was a most ironic interpretation of both the new act and the events of recent broadcasting history — not least because the occasion for the remark was the 25th anniversary celebration of the CBC.

But to return to the summer of 1958: by July, there had been several important developments, and outside the political arena, battle lines were drawn for yet another struggle between the allies and enemies of the CBC. The Conservative Cabinet itself, as well as a special advisory committee which it had appointed, were split on the question of whether a one-board structure should be retained. Nowlan, the responsible minister, was known to be sympathetic to the CBC, whereas George Hees, the Minister of Transport, was said to be friendly with certain Toronto business interests, notably the Eaton and Bassett families, who owned the *Toronto Telegram* and were eager to set up a second TV station in Toronto.

While a new bill was being drafted and discussed by Cabinet, and a debate was being conducted in the House on the nature of the broadcasting system and the national service, a good deal of

¹ Reported in *The Globe and Mail*, March 19, 1958; quoted by E.A. Weir in *The Struggle for National Broadcasting in Canada*.

lobbying was going on behind the scenes. The CAB had been taking advantage of its privileged access to certain ministers and Conservative leaders in order to influence the outcome of Cabinet's deliberations on the provisions of the new act. Graham Spry — who for some years had represented the province of Saskatchewan in London as its agent-general — had resurrected the Radio League as the Canadian Broadcasting League (CBL). With the support of a number of distinguished Canadians, Spry sought to affect the course of political events, and on July 18, led a delegation to the prime minister in an attempt to make him see the folly of institutionalizing a dual system. Though Diefenbaker's views on many matters of detail in broadcasting policy were not known at the time, the die, it seems, had already been cast. Earlier that month, in a move that coincided with the beginning of a troubled era for the CBC, Davidson Dunton resigned his chairmanship. And to the difficulties of social upheaval in Canada (especially in Québec) and of political hostility in Ottawa to the CBC was now added a new broadcasting bill which was badly drafted and administratively unworkable.

The 1958 Act

When the Conservatives' broadcasting bill was given first reading on August 19, it came as no surprise that its chief provision was to create a regulatory tribunal separate from the CBC — namely, the Board of Broadcast Governors. Strangely enough, though this was precisely the radical departure from 22 years of unbroken, if frustrated tradition that Spry, Dunton and their colleagues feared most, the new structure was presented and perceived as a measure inspired directly by the Fowler Report. Much of the press, certain MPs and broadcasters, even Nowlan himself, seemed to believe that the newly created BBG was for all practical purposes the body contemplated by Fowler and his fellow commissioners. What created some of the confusion was the Conservatives' use of the name coined by Fowler for the board, as well as their incorporation into the act of some of the language in Fowler's own draft statute. Apart from this superficial resemblance, however, the 1958 Act² created the very regulatory structure that Fowler had been at pains to discredit — the two-board system, as against the one-board system as it then existed.

The 1958 Act did violence to the Fowler Report in one other major respect, and that concerned CBC finances. Despite all the carefully considered financial advice contained in the report, the Conservative government rejected the idea of a five-year statutory grant designed to stabilize CBC revenues and allow long-term planning. Section 35(2) of the Act did make mention of five-year

2 See *Revised Statutes, Broadcasting Act, 1958*, 7 Eliz. II, c. 22.

CBC capital programs, but section 35(1) provided that both capital and operating budgets would be submitted annually to Parliament, after approval by Cabinet. Critics of the bill predicted that with — the rapidly mounting costs of the television service, this system of appropriations would bring the CBC into more and more serious conflicts with Cabinet, the broadcasting committee and the House itself.

— In effect, then, the bill proposed to reduce the Corporation to the level of the private broadcasters, with both public and private sectors coming under the authority of the BBG. Although this was a far more drastic change than any provided by the 1936 Act (which created the CBC), and one vehemently criticized by spokesmen for the Opposition, the bill went from first reading on August 19 to royal assent on September 6, that is, in the astonishingly short time of two and a half weeks. Objections to the bill were not directed merely at the provision for a separate regulator (though this was certainly regarded as its outstanding flaw), or its poor draftsmanship, or the lack of consideration given by either Commons or Senate³. The fact was that, impractical as a separate regulator may have been in principle, the administrative machinery actually provided by the Act in regard to the powers of the board was vague and incomplete. This was especially true of its powers over the Corporation and its lines of responsibility to Parliament.

— Under the new provisions, the Corporation was stripped of any responsibility for goals of national purpose; thus, section 29(1), which purported to specify the CBC's objects and powers, lists 14 powers but makes no mention of anything resembling an object.⁴ The national goals, such as they were, were now reserved for the board under its objects and purposes, in section 10. The section read as follows:

The Board shall, for the purpose of ensuring the continued existence and efficient operation of a national broadcasting system and the provision of a varied and comprehensive broadcasting service of a high standard that is basically Canadian in content and character, regulate the establishment and operation of networks of broadcasting stations, the activities of public and private broadcasting stations in Canada and the relationship between them and provide for the final determination of all matters and questions in relation thereto. (Emphasis added.)

This final consideration was an invitation to conflict, since it could

³ The bill had been introduced very near the end of the session and Parliament was prorogued the day royal assent was given.

⁴ Except to say that the CBC was established for the purpose of "operating a national broadcasting service".

be interpreted to mean that the BBG had ultimate authority over all activities of the Corporation, an interpretation which the Corporation could be expected to resist. Despite the apparent goodwill of both Alphonse Ouimet, who would become president of the CBC later in the year, and Dr. Andrew Stewart, the new chairman of the BBG, the two organizations would soon be locked in a series of bitter power struggles, to the detriment of the broadcasting system as a whole.

The absence of adequate financial provisions for the CBC, of any express acknowledgement that the single system had been effectively dismantled and of clear lines of authority between Cabinet, Parliament, CBC and the BBG were all accompanied by one other notable omission. Under the 1936 Act, there were provisions for the expropriation of independent stations by the public broadcasting agency, and private operators were clearly intended to be subservient to the CBC — unequal partners, so to speak, in the provision of a national broadcasting service. Thus, section 11(5) of the 1936 Act read in part as follows:

... no person shall be deemed to have any proprietary right in any channel heretofore or hereafter assigned, and no person shall be entitled to any compensation by reason of the cancellation of the assignment of a channel or by reason of the assignment of a new channel in substitution therefor.

It spoke eloquently of the Conservative attitude to vested interest in the control and use of radio frequencies that no such provision was written into the 1958 Act.

It was along these same lines that Lester B. Pearson, leader of the Opposition, criticized the tendency of the new Act to create a dual system and thereby entrench the alleged rights of the private operators. Speaking on second reading of the bill, Pearson pointed out that:

What was once ... a privilege for private broadcasters had gradually become a vested interest and eventually has been evoked as a right. As soon as this privilege could be put forward in public discussion as a right, which of course it was not, then the position of the CBC ... could be attacked on the grounds that the public agency was at the same time a judge and competitor ... Strictly speaking, the CBC was not a competitor with the private stations as those stations did not have separate rights to claim but rights which were merely an extension and complement of the national system. (*Debates*, August 25.)

The quasi-dual system created by the broadcasting bill (despite the

lack of explicit avowals) had several other features which were criticized by Pearson in the preliminary debate on August 18 and again on second reading, when he was supported by fellow Liberal J.W. Pickersgill. These features were administrative, financial and political in nature. On behalf of the Liberal opposition (though not the CCF), Pearson predicted that under a two-board system, either the BBG and CBC would come repeatedly into conflict, or — else one board, probably the BBG, would tend to make the other redundant.⁵ In any case, because the lines of authority were so blurred and the private lobby so energetic, Pearson felt that

this new Board of Broadcast Governors . . . will tend to become a regulatory body for private stations only, influenced increasingly by the financial situation of these private stations. More and more then, this board may be concerned with private stations rather than the control and regulation of a national system.

Indeed, as if to bear out Pearson's prophecy, certain private broadcasters would soon begin referring to the BBG as "their" board.

Pearson went on to argue that the bill would weaken the CBC not merely by placing it on something like the same footing as the private stations, but also by leaving it with the responsibility for providing a national service, while depriving it of control over the broadcasting system as a whole and therefore of access to private facilities.⁶ The Corporation's autonomy would also be impaired — by the financial provision which the Conservatives had written into the bill and which rejected by omission, rather than argument, the recommendations of the Fowler Commission. Finally, both Pearson and Pickersgill warned that the proposed revamping of the CBC board would lead inevitably to political abuse and interference.

There was little more that the Liberals could do. Nowlan rejected Pearson's arguments, the vast Conservative majority sent the bill on to the Senate, which proposed two minor amendments, and on September 6 the Act received royal assent. It came into force by proclamation on November 10, 1958.

The Board of Broadcast Governors

Part I of the 1958 Act established the Board of Broadcast Governors, consisting of three full-time and 12 part-time members to be appointed by the Governor-in-Council. The three-full time

⁵ This was a criticism very much like that put forward by the Massey Commission in 1951. See above, p. 32.

⁶ Cf. the statement by A.D. Dunton to this effect before the Fowler Commission. See above, p. 38.

members were appointed for a period of seven years during good behavior, and were eligible for re-appointment. One of these three was to be named chairman and another vice-chairman of the board. As well as being responsible for the broad objectives described in section 10 (see above, p. 46), the BBG could issue regulations on such matters as program standards, advertising, the "greater use of Canadian talent by broadcasting stations" (section 11(1)) and networks "other than [those] operated by the Corporation" (section 13(4)), which seemed to mean that a second television network was being contemplated by the government.

Appointments to the board were announced November 10. The chairman was Dr. Andrew Stewart, the vice-chairman Roger Duhamel (who resigned a little over one and a half years later) and the third full-time member, Carlyle Allison (who eventually replaced Duhamel as vice-chairman). The latter two had close links with the Conservative Party, as did most of the part-time appointees, only one of whom — Dr. Eugene Forsey — was a figure of national stature. The new CBC board, on the other hand, had a much more distinguished membership than did the BBG, in part, it seems, because the government did not want to be accused of emasculating the CBC even more than it had already done in the new Act. The same announcement also elevated Alphonse Ouimet, who had been with the Corporation since its inception, to the position of president, while appointing Ernest Bushnell as the statutory vice-president.

Within months of its installation in office, the BBG was called upon to deal with two very sensitive issues — the licensing of second TV stations and the formulation of new broadcasting regulations, most notably in the areas of Canadian program content and the character and amount of commercial advertising. This was an onerous responsibility for what turned out to be a particularly inexperienced board.⁷

The issues of second TV stations and new TV regulations were inter-related, inasmuch as Nowlan wanted new regulations drafted as a basis upon which to grant second-station licences. The government had announced that it would hear applications for such licences starting in September 1959; and just two months later, after barely one year in office, the BBG issued its new television regulations. By far the most important provision — and one which was vigorously opposed by the CAB, the Association of Canadian Advertisers and particular firms with an important stake in TV as a commercial medium — was that concerning Canadian content quotas.⁸ From April 1961, all Canadian tele-

7 Among its members, for example, was the prime minister's dentist from Prince Albert, Saskatchewan.

8 In a letter to the Red River Television Association (a future applicant for a television licence in Winnipeg), the president and general manager of Proctor & Gamble of Canada had this to say about the BBG regulations: "I can confidently assure you that if new regulations force up the already

vision stations would be required to broadcast a minimum of 45 per cent "Canadian content", this figure rising to 55 per cent by April 1962. The encouragement of Canadian program production and the extensive use of Canadian talent had always been goals of public broadcasting policy, and indeed the CBC had comfortably exceeded the minimum figures now set by the BBG, on both its English and French services. The problem, of course, was with the private broadcasters, especially those in television, where there was an irresistible temptation from the very beginning to buy U.S. programs at dumping rates in order to keep costs down and sustain high profit margins. When control of the system passed out of the CBC's hands in 1958, there were already 44 private television stations in the country and still only eight CBC stations. Even a government very sympathetic to the concerns of private enterprise realized that content regulations were absolutely indispensable to the health, the very existence, of a domestic program production industry, if not the broadcasting system taken as a whole.

However, the 55 per cent objective was one thing in principle; it was quite another in practice. Under pressure from the private interests and, undoubtedly, certain members of the government, the BBG conceded that its requirement (which had Nowlan's approval) was perhaps too harsh, and so proceeded to dilute and qualify it. For one thing, broadcasters would be allowed to average out their content on a four-week, rather than on a one-week basis, and starting in 1962, the 45 per cent figure would continue to apply over the summer season. More importantly, the notion of "Canadian content" was defined very loosely, and included, besides all manner of broadcasts originating within Canada, programs originating outside Canada but having Canadian participation, or simply deemed to be of general interest to Canadians, such as the World Series or an address by the President of the United States. Allowance was also made for programs originating in Commonwealth or francophone countries, a certain proportion of which could be counted as "Canadian". And so on.

As is usually the case with administrative regulations, the -regulated sector — that is, the broadcasters — found ways to get around the rules, or managed to obey the letter rather than the spirit, and the regulator was forced to keep pace. When it became apparent, for example, that stations were packing the prime-time

high cost per thousand of television. Canada's biggest television advertiser will not hesitate to switch into media that offer better value for money. I am, of course, implying that the [BBG's] proposed regulations may seriously damage the economic health of the television broadcasting business: and I, therefore, believe that it is vitally in your interest to put up, individually or through C.A.B., the strongest possible fight against the B.B.G.'s proposals . . . This last paragraph obviously grinds our own axe as well as yours (i.e. 55% Canadian content is impossible and will be unduly expensive)". (Copy of letter, dated September 17, 1959, from the files of Graham Spry, Ottawa.)

evening period with U.S. programming, to the exclusion of Canadian shows, the BBG amended the regulations and obliged broadcasters to schedule a minimum 40 per cent Canadian content between 6 p.m. and 12 midnight. But this definition of prime time allowed programmers to continue packing the true prime-time period — 8 p.m. to 10 p.m. — with U.S. shows, and the two hours before and after with Canadian shows, in fulfillment of their obligations. This process of continual re-definition continued from year to year as the BBG attempted to carry out their legislative mandate. But since no consideration was given to program quality and no definition made of “talent”, the net result was that the BBG was not able to ensure the provision of a broadcasting service of “a high standard that [was] basically Canadian in content and character” — at least not in the private sector. The BBG was much criticized for these regulations, although it is questionable whether, in general, it was really practicable to attempt to achieve such goals by fiat, given the nature of the dual system and the role of the CBC after 1958.⁹

As significant as their implications might be, the difficulties experienced by the BBG in regulating certain aspects of broadcasting received less public attention than did its licensing of second stations, especially when this involved the CBC. The issues here included problems with the new Toronto station (licensed as CFTO-TV), the telecast arrangements for the 1962 Grey Cup and the disputes over CBC TV licences for Québec City and St. John's, Newfoundland.

During the first five months of 1960, the BBG held hearings in eight cities across the country, with a view to licensing second TV stations in each of the cities in question. The most important of these — because it would be in the most lucrative Canadian market — was the Toronto station. Though a large number of applicants turned out for the Toronto hearings, one of them — John Bassett, representing the *Toronto Telegram* group, which included John David Eaton and Joel Aldred — is said to have let it be known well before the hearings began that the licence was already as good as his. Bassett's prophecy was borne out mere days after the hearings, when the BBG recommended to the Minister of Transport that the Toronto licence be awarded to Baton Aldred Rogers Broadcasting. It had not escaped either public or parliamentary attention that most of the principals involved in CFTO — Bassett, Eaton, Aldred and others — had very close links with the Progressive Conservative Party, and strong protests went up over what seemed to be a blatant exercise of political favoritism.

Nor was this the only embarrassment suffered by the BBG in

⁹ The BBG was more accommodating with its advertising regulations, since restrictions in this area had a much more immediate impact on station revenues.

connection with CFTO-TV and John Bassett. In the summer of 1961, only a few months after CFTO had begun operations, Bassett, CFTO's chairman, had an irreconcilable falling out with Joel Aldred, his company president. The BBG became involved when CFTO asked for ministerial permission to transfer Aldred's stock holdings to ABC-Paramount, owners of the American ABC network. Briefly, the implications of such a move for the Canadian public interest were seen to be dangerous and far-reaching, despite Bassett's protestations to the contrary. After strongly-worded statements were sent to the prime minister by Graham Spry and Arthur Lower, and Eugene Forsey had threatened to resign his governorship, the BBG in September reversed its earlier decision to allow the share transfer to ABC, and in March 1962, it promulgated a new regulation concerning station financial disclosures. However, the BBG's reputation had suffered considerably, and in the meantime, CFTO, which was in serious financial trouble, went ahead and negotiated a \$2.5 million loan from ABC, which, for a time, took a direct hand in management of the station.

Some months after this crisis had passed — and the newly-created CTV network had begun operating (in October 1961) — the BBG became involved in yet another wrangle with John Bassett, as well as in one of its first major confrontations with the CBC. This concerned telecasting of the 1962 Grey Cup football match. Television rights to the game had been purchased by Bassett, on behalf of CFTO, and rival Spencer Caldwell, on behalf of the CTV network. During contractual negotiations that summer with the CBC about extending coverage to the publicly-owned network, a misunderstanding arose over whether or not the CBC was prepared to accept the program on a sponsored basis. The BBG, who in December had announced a policy of cross-programming between public and private networks, felt compelled to intervene in July and again in November, and on both occasions formally ordered the CBC to accept the game for network distribution on a sponsored basis. Ouimet, with the support of his board, and a corroborating opinion from the deputy attorney-general of Canada, objected to the cross-programming rationale in the strongest terms, and flatly refused to comply with the BBG order. The CBC president regarded this acquiescence to commercial interests as a dangerous precedent and a threat to the integrity of the public network. In the end, CBC and CTV reached a satisfactory compromise between them, but not before the BBG had been forced to back down and, once again, see its public esteem suffer as a result.

There was yet another issue which set the two agencies at odds in 1962. Early in the year the BBG heard representations in Québec City from both the CBC and a private group regarding a second TV licence. The CBC's case for establishing a presence in the provincial capital was very convincing and, moreover, had eminent local support. The hearings ended in February, but three

months and several board meetings later, there was still no announcement of any recommendation on the licence. Eugene Forsey and Guy Hudon, the governor from Québec City and dean of law at Laval University, threatened to resign unless there was an early commitment on the BBG's part. It then emerged that at least one cabinet minister — Jacques Flynn, representing Québec City — had pressured some board members not to come to a decision. Forsey and Hudon resigned, and in the federal election held on June 18, a number of Conservatives, including Flynn, lost their seats in Québec. It was not until January 1963 that the BBG was finally able to resolve the Québec City controversy in the CBC's favor.

The Role of the CBC

In the period up to early 1963, it was fairly easy for the press, and the Liberals, to chastise the BBG for its political leanings and seeming willingness to exercise political patronage in bestowing licences and drafting regulations. In addition, the BBG's contentious relationship with the CBC was exacerbated by the suspicious, even hostile regard in which a large number of Conservatives held the public broadcasting agency. Many felt that the Corporation was extravagant in its spending, disappointing, even blasphemous in its programming and downright inimical to party interests. With the support for the CBC expressed by Pearson and Pickersgill from the Opposition benches, one might be inclined to look upon the problems of the BBG, and especially its problems with the CBC, as stemming from both Conservative Party policy (or lack of it) and the presence of so many loyal Conservatives on the board.

The matter was not that simple, however. To begin with, the lesson to be learned from the BBG's first half-decade was not so much a political one as a structural one. The governors, irrespective of their political sympathies, were compelled to accommodate the reality of a dual system to the legislative fiction of a single system in which the CBC had no clearly defined role. It was not merely that the private sector had grown to a size never contemplated by Parliament before 1958; it was also that the CBC was now completely outstripped by the private sector, which had gradually assumed the dominant position, in budgets, assets, audience and program "commercialism". (The effect of the increased influence of commercialism on the CBC during this period is dealt with below.) Furthermore, after the April 1963 election which returned a Pearson government to power, it became quite evident that the Liberals, for all their previous concern with the single system and the role of the CBC, were quite as capable as the Conservatives of showing favor to vested interests in the realm of broadcasting.

The extent to which the Liberals were prepared to sacrifice national purpose was amply demonstrated by the dispute over the licence for a second TV station in St. John's. Just before the new government was installed — with Pickersgill named as Secretary of State, with responsibility for both the BBG and the CBC — the BBG had finally recommended approval of a CBC station in St. John's. As in Québec City, there were compelling reasons for having a publicly-owned station in Newfoundland. Unfortunately, the first licence, for station CJON-TV, had gone to a private group and, following a December 1962 policy pronouncement, the BBG now sought to limit station extension to areas not already covered, with a view to protecting investments and preventing a fragmentation of markets. At St. John's, Ouimet had argued a strong case before the BBG based on public interest and the need for an interchange of ideas between the island and the mainland, which the private station had never provided. However, CJON-TV had only to argue that a CBC station would threaten its revenues, and the BBG, while consenting to the CBC request, took this as sufficient reason to attach a series of very stringent conditions to the CBC licence, all designed to protect the commercial interests of CJON-TV.

To this point, there had been only a BBG recommendation regarding the CBC licence; the Department of Transport had still to give final approval. Three or four weeks went by, and instead of pursuing the recommendation in Cabinet, Pickersgill appointed a special consultative committee to advise on general matters of broadcasting policy, which became known as the "Troika". It was made up of BBG chairman Andrew Stewart, CBC president Alphonse Ouimet and the president of the CAB, Don Jamieson. Now, as it happened, Jamieson not only had close connections with the federal Liberal Party, but was also the manager and co-owner of CJON and CJON-TV of St. John's. Having benefitted from his political connections in Ottawa in 1955, when the first St. John's TV licence was issued to his group rather than to the CBC, Jamieson now found himself advising the government on policy questions (CBC expansion and disaffiliation) which bore directly on the St. John's licence decision. By August, and despite vociferous protests from the Citizens' Committee of St. John's, there had still been no decision. DOT had asked the BBG for further details on the case and Dr. Stewart had felt unable to provide them, because of the inquiry being undertaken by the Troika. In any event, the national press viewed the whole affair as a very indiscreet piece of political interference, and it was only in October, after considerable public pressure was brought to bear on Pickersgill, that the licence was approved. And it might never have been recommended in the first place if the CBC had not agreed to drastic concessions designed to protect CJON-TV's vested interest in the channel allocated to it.

There were other instances of political interference with the

CBC which took more pointed and alarming forms.¹⁰ In June 1959, for example, CBC Ottawa headquarters instructed the Toronto office to cancel a three-minute radio editorial program called "Preview Commentary", with the warning that "heads would roll" if it did not act immediately. Since no other explanation was offered and the program commentators had frequently been critical of Diefenbaker, the assumption was made that the directive had come from a high government source. As a result, the supervising producer, Frank Peers, tendered his resignation, as did two of his colleagues. Presumably because of the threat of scandal, these were refused and the program stayed on the air. In investigating the incident later that year, the parliamentary committee claimed to find no evidence of interference.

The 1959 committee's finding in this case was a reflection of its officious and belligerent attitude to the CBC. Never before had a committee of the House shown so little concern for the purposes and problems of the CBC, and so much determination to pry administrative and financial information from its spokesmen. While Bushnell, the vice-president, was hounded for disclosures, the committee, in its hearings and later in its report, made recommendations concerning management and funding which would have all but destroyed the Corporation's autonomy. The attitude of the 1961 committee was no more fair-minded, and, if anything, even less concerned with the national purposes of the broadcasting system. These investigations were not, in any case, to be investigations of the CBC, but of Canadian broadcasting as a whole. Yet in nearly 2,000 pages of evidence, neither House committee thought it appropriate to examine the affairs of the private operators, the CAB or the BBG.

Naturally, the Corporation's problems from 1958 to 1963 were not all of the Conservative government's making, although in one case, that of the Montréal producers' strike, the Diefenbaker cabinet's strategy of passive resistance served to exacerbate the conflict. In December 1958, producers of Radio-Canada at Montréal went out on strike in support of their claim that they had the right to organize and bargain collectively. Senior management at CBC refused to recognize this right on the grounds that the producers played a managerial role, and the dispute festered for three long, bitter months. Management finally capitulated, leaving the whole French side of the CBC badly shaken, with much ill will between strikers and non-strikers and a very poor press for the Conservative régime in the province of Quebec.¹¹

In the main, however, the CBC's problems in the late fifties and early sixties were of a more general and less tangible sort,

10 Despite the fact that the CBC seemed to enjoy reasonably good relations with Nowlan himself.

11 The strike also served to transform a popular Québec broadcaster — René Lévesque — into a politician and militant Québec nationalist.

having to do with subtle and entirely unacknowledged changes in its role as part of the broadcasting system, as well as in its relationship to the private sector. The private sector, as we have already noted, had come to dominate the system by 1958, and the establishment of the BBC under the 1958 Act was in some ways an acknowledgement of this fact. In other ways, however, the policy-makers and legislators in Ottawa, as well as much of the press, had failed to realize that by then Canada's broadcasting system, and more particularly, the nature of television programming, had undergone dramatic changes. American programs were more and more prevalent in Canada and more and more popular with Canadians; private Canadian broadcasters were in an increasingly competitive position vis-à-vis the CBC, the ironic legacy of a piece of legislation intended to have exactly the opposite effect; and the CBC itself was now under pressure to compete more effectively with the private sector and to program its schedules in a more commercial manner. The growing commercialism of the CBC at this time was the product of two things: one, the forces of the market; the other, the insistence of the 1959 and 1961 House committees (and to some extent of the Fowler Report), that the CBC pursue a more aggressive commercial policy, in part at least to enable it to "pay its own way". The net result of this new policy, together with the pre-eminence of private commercial broadcasting in Canada, was a blurring of the CBC's twin roles as a competitor in the commercial marketplace and an agent of public service and national purpose.

6

The Dual System Re-Assessed

The Glassco Commission (1963)

When the Royal Commission on Government Organization (the Glassco Commission) was appointed in September 1960, the CBC was not among the "special areas of administration" slated for assessment. A report on broadcasting originally drafted by Henry Hindley, of the commission staff, was deemed by the commissioners to be outside their terms of reference, and it was therefore reworked into an analysis of the CBC, which appeared in volume 4 of the final report in April 1963.

A brief three-month survey of the CBC's organization was begun in September 1961 under the direction of John Carson, then a vice-president of B.C. Electric seconded to the staff of the commission, and G.H. Cowperthwaite, of the prestigious Toronto accounting firm Peat, Marwick. They were assisted by Henry Hindley, three of Cowperthwaite's colleagues and two consultants from private industry, and the professional concerns of the researchers are reflected in the 40-odd pages of the report devoted to the CBC. On page 21, mention is made of the commission's terms of reference in connection with the CBC; these were concerned chiefly with the "suitability of the present form and organization of the CBC to its role, and to the quality of management it brings to its task." A few lines later (p. 22), these terms are spelled out in a little more detail. The report was to cover three principal subjects:

The relationships between the Corporation, the Cabinet and Parliament, including the adequacy of the policy guidance and definition of task which the Corporation is given . . .

The kind of Board of Directors which its role and relationship to the Governor-in-Council suggest the CBC should have . . .

The suitability of the Corporation's management and its organization for its present tasks . . .

Given such a mandate, it is hardly surprising that the commission felt compelled to "pay high tribute to many of the Corporation's accomplishments in providing Canadian audiences with radio and television services of high quality", yet pointed to the need for "extensive reorganization to secure efficiency and economy in its operation" (p. 49). They were, in a word, satisfied with CBC programs, but critical of its management.

The financial and managerial expertise which the commission consultants brought to their task was perhaps not matched by their grasp of the larger issues or the historical background. They write, for example, that the "most fundamental policy change since the Corporation was established in 1936 was the decision to inaugurate television broadcasting" (p. 25). This decision may have been very significant in terms of CBC expenditures, but it was clearly not the most fundamental policy decision in CBC history.¹ Or again, the consultants' greater familiarity with financing than with programming prompted them to complain about "what appears to be excessive concern with the risks of sponsor influence on programme content." Here in keeping with the unequivocal advice of Fowler and the 1959 and 1961 House committees, Glassco's consultants urged a more aggressive and rational commercial policy, and like their predecessors, they seemed unaware of the very real effects that commercial policy and commercial sponsors can have on programs and the people who produce them.

Nevertheless, the drafters of the report seemed to have a good appreciation of some of the Corporation's basic problems, both internal and external. For example, in a section that is mainly concerned with recommending changes in the CBC board (pp. 29-32), the report acknowledges that "in light, particularly, of the emergence of a private television network [CTV] actively competing

1 That characterization would probably have to be reserved for the creation of the BBC in 1958, although it could be argued that this was not strictly a CBC policy change. In commenting on this observation, Henry Hindley has suggested that the introduction of television was "a prime cause of administrative and managerial deficiencies, because none of the senior CBC officers had any experience in dealing with an organization on the new scale involved . . .". (Personal communication to the writer, October 2, 1978.)

with the Corporation, the possible conflict between the powers of the regulatory authority and the statutory terms of reference of the Corporation is assuming serious proportions" (p. 32). The problem did not lie simply in the creation of a separate regulator as such; it also had a great deal to do with the nature of these "statutory terms of reference". As the report went on to argue, the Corporation "badly needs a clear definition of its task and the limits of its responsibility" (p. 36) — precisely what the 1958 legislation did not provide.

In part, then, the Corporation was hamstrung by lack of policy direction from the government. But the report was more concerned with analysing the *internal* structural problems of the CBC, and this it did in a good deal of detail, criticizing board relations with the government, organization of the head office, the CBC's policy group, its sales organization and its financial administration. The CBC, it summed up, had "failed to develop positive goals" (p. 50). Although the drafters regarded this as a pre-eminently administrative problem, they did point out that the absence of concrete corporate goals was "seriously complicated by the effect of new competition from private broadcasters" — an observation which, though it may have been lost on the Diefenbaker government, was certainly not lost on Ouimet and his staff. And, in the very same paragraph, the report went on to make the inevitable observation on CBC funding: "Decision-making in the Corporation would be immeasurably strengthened if a definite pattern of financing were developed, by way of either a fixed annual grant or one based upon Canadian population" (p. 36).

Whatever its merits, the Glassco Commission's investigation of the CBC was not destined to make a deep impression on Parliament. Lost as it was in a lengthy study of a large number of government departments and agencies of the Crown, the CBC report was turned over to Diefenbaker's minority government just days before it was replaced by a Liberal government headed by Pearson.

The Fowler Committee (1965)

In May 1964, just as Ouimet, Stewart and Jamieson were turning over their Troika reports to the government, the Secretary of State, Maurice Lamontagne, announced the appointment of an advisory committee on broadcasting under the chairmanship of Robert Fowler, who had headed the 1955-57 Royal Commission. The other two members were Marc Lalonde, then in private practice as a lawyer in Montréal, and Ernest Steele, the Under-Secretary of State. Although the committee was established in conformity with the Inquiries Act, giving it the power to hold public hearings and call witnesses, it was decided to take evidence and submissions in an informal way. The committee's terms of reference, in themselves, permitted a much more far-reaching

— investigation than those of the Troika or the Glassco Commission, with one exception. For reasons unknown now, the terms of reference explicitly excluded cable television, which was already looming large as a threat to conventional broadcasting.

Was yet another investigation of the broadcasting system necessary at this time? Clearly Pearson and Pickersgill, who had been responsible for initiating the new inquiry early in the year, felt it was. The troubles of the CBC and BBG in the preceding six years were far from being resolved, and the Liberals had political, if not exactly partisan motives for wanting a re-assessment of the —system created by the Conservatives in 1958. The re-assessment provided by Fowler's second report, released in September 1965, certainly did blame the Conservatives for much of what was wrong. But if the Liberals believed, as Lamontagne's statement of the committee's terms of reference seemed to suggest (p. vii), that the problems and their solutions lay in the structure of the CBC, or even that of the BBG or the private sector, they were mistaken. The problem rested with Parliament, as the report was at pains to point out:

In the past, Parliament has not stated the goals and purposes for the Canadian broadcasting system with sufficient clarity and precision, and this has been more responsible than anything else for the confusion in the system and the continuing dissatisfaction which has led to an endless series of investigations of it. (p. 91)

Fowler now hoped, not without introducing a certain note of irony, that with the "appropriate legislation and declarations of parliamentary intent, the need for further investigations of Canadian broadcasting would not arise for several years" (p. 91).

— The problem, of course, was not simply that the statutory provisions "did not specify the goals for the broadcasting system", but also that they did not "provide for their attainment". More particularly, they were "remarkably unclear in defining the continuing relationship between the agencies of control and Parliament" (pp. 88-89). Fowler elaborated his solutions to these problems in a series of recommendations, two of which appear on p. 94:

Parliament should state firmly and clearly what it expects the broadcasting system to be and do; and should set explicit goals, for both the public and private sectors of Canadian broadcasting, in the Broadcasting Act and more fully in a White Paper on broadcasting policy.

The administration, control and direction of the national broadcasting system, in accordance with the goals defined, should be delegated to an independent board or authority. (p. 94)

The system, in other words, needed (a) clear policy objectives (which could only come from the law-makers), and (b) regulatory restructuring.

The new structure that the Fowler Commission proposed would resemble the pre-1958, one-board system, in keeping with their conclusion that the two-board system had been a failure. "The experience of the past six years," he said, indicated that "the two boards have tended to negate each other" (p. 97). A lengthy section of the report (pp. 98 ff.) was therefore devoted to a description of the powers and functions of a Canadian Broadcasting Authority, which was intended to replace the BBG and CBC boards. It was seen primarily as a policy-oriented body, which would not be directly involved in public-sector programming. From the amount of detail offered on the proposed CBA, it would seem that the committee regarded such a reconstituted board as a central element in any new legislation. As will be seen, the Liberals were far more eager to embrace Fowler's idea about policy objectives than the recommendations for a new structure.

The CBC itself, its organization, production and finances, received a good deal of attention as well — something over a hundred pages in fact (see Part III, pp. 123-226). The opening remarks on the Corporation echoed what had been said about the system as a whole:

The Broadcasting Act of 1958 is remarkably terse in stating the objects and purpose of the CBC. The Act contains some necessarily long and dull sections defining the structure of the Corporation and its rights and powers. But when it comes to expressing the essential purpose of the CBC, the Act uses only five words. Section 29 states that the Corporation is established for the purpose of 'operating a national broadcasting service'. In sixteen lengthy sections dealing with the CBC, this is all the guidance given to those charged with the responsibility for administering the public broadcasting agency . . . If the interpretation [of this purpose] has failed to conform to the wishes of Parliament, it is clear where the responsibility rests. (pp. 123-24)

After a detailed discussion of both the CBC's interpretation of this mandate, and their own, the committee recommended (p. 126) that the CBC's mandate "be clearly stated and defined as fully as possible by legislation, and . . . expanded and specifically explained in a White Paper on broadcasting policy."

One further recommendation deserves mention. This had to do with the BBG's regulatory philosophy, particularly in regard to "Canadian" television content. The committee was not happy with blanket regulations which took no account of the particularities of each station's operations, and even failed to distinguish

between public- and private-sector broadcasting. The situation might not have been so bad if, on the one hand, the BBG had properly enforced its own regulations and, on the other, the quality of Canadian broadcast programs had been sufficiently high, but such was not the case.²

The committee therefore proposed the "establishment of individual station standards of program performance, which [were] to be made a condition of each station's licence and enforceable as such" (p. 64). It also argued that the "way in which any broadcaster has complied with the program-performance conditions of his licence should . . . be taken into account when the licence has expired", while the Broadcasting Act "should make it clear that no one has an automatic right to the 'renewal' of a licence" (p. 58).

Like the Aird and Glassco reports before it, the second Fowler report did not surface at an auspicious moment. Not only was an election close at hand, but Ottawa and the Liberal Cabinet had also been rocked by scandals during the preceding summer. What public reaction there was to Fowler II in those heady days was not particularly favorable. Many people, not least the private broadcasters, claimed that the chairman of the proposed CBA would be nothing more or less than a broadcasting czar, implying that democratic freedom, and free enterprise, would be at risk under such an arrangement. The Liberal government, for its part, showed greater enthusiasm — but more for the form or principles of Fowler II, than for the substance or mechanics. By the end of the year, Judy LaMarsh was installed as Secretary of State and the government had begun to move on one of the committee's major recommendations: drafting a white paper on broadcasting policy.

The White Paper (1966)

Although the government seemed to have been contemplating new broadcasting legislation even before the Fowler Report was in its hands, the appropriate White Paper was not tabled in the House of Commons until July 1966. There were further delays in passage through the Standing Committee on Broadcasting, Films and Assistance to the Arts, which did not report on the document until March 1967. In a practical sense, however, the outside consultations, drafting of the White Paper, testimony given before the standing committee and the committee's own appraisal of the White Paper, were all mere formalities in the larger legislative process. To all appearances, the government had long since made up its mind on at least the broad lines of policy.

² The committee's concern with programming was established in the much quoted opening sentence of the report: "The only thing that really matters in broadcasting is program content; all the rest is housekeeping" (p. 3).

Partly for this reason, then, and partly because of the constant pressure being exerted on the government not to make any substantial changes in the structure of the broadcasting system, the White Paper reads as a curiously vague and sometimes inconsistent document. The opening section, headed "Objectives", begins with the uncontroversial statement that the "determination to develop and maintain a national system of radio and television broadcasting in Canada is an essential part of the continuing resolve for Canadian unity." After references to the "electronic age" and the "era of communications satellites", the section goes on to pose the question: "How can the people of Canada retain a degree of collective control over the new techniques of electronic communication that will be sufficient to preserve and strengthen the political, social and economic fabric of Canada, which remains the most important objective of public policy?" Apart from this statement of the policy problem (and another reference to Canadian unity as the "essential goal"), there is no further discussion of actual objectives for the broadcasting system in this particular section.

In section 2 ("The Advisory Committee"), the government was very careful to give the impression that it had weighed all shades of opinion and given the committee's "far-reaching recommendations" the most serious consideration. It notes, without further explanation, the "special regard" paid to the "expressed opinions of the Canadian public at large". It goes on to affirm that "the comments and criticisms made by the Advisory Committee within its terms of reference are in many respects soundly based and generally valid, and that many of its recommendations should be implemented as soon as possible, in effect but not necessarily in every detail." This was a very qualified sort of commitment to the fruits of "fifteen months of intensive study of the complex problems peculiar to Canadian broadcasting" which Fowler had undertaken.

The next section dealt with the general principles of public control of broadcasting. "Past experience," it begins, "has clearly demonstrated the necessity in Canada for a broadcasting system that includes public and private elements, in which the place of the public element should predominate in policy areas where a choice between the two is involved." The first half of this statement was, of course, perfectly true: conditions peculiar to the Canadian situation had brought about a marriage of convenience between the public broadcasting agency and its private affiliates. In view of the Liberals' own station licensing record, however, there was something a little disingenuous about the second half of the statement. The public element might well have been seen as predominant in "policy areas", that is, to the extent of announced intentions; but the public element was not predominant *in fact*, and the government had almost never behaved as though it were. In the rest of the section, the government made

a firm, if not altogether clear statement of commitment to the principle that it was responsible for what it called the "physical structure" of the system (as distinct from programming), and said it would be asking Parliament "to authorize the Governor-in-Council to give formal directions to the regulatory authority, dealing with the structure of the system, which may then be put into effect after suitable public discussion." The decision to seek power to give directions on these matters was, at that time, revolutionary.

Section 4 ("The Regulatory Authority") makes what is perhaps the most important policy statement in the entire paper:

The Canadian broadcasting system, comprising public and private sectors, must be regarded as a *single system* which should be regulated and controlled by a *single independent authority*. It is therefore proposed that the powers and authority of the Board of Broadcast Governors, which require extension and clarification, shall be applicable to *all broadcasters alike*, and that the Board itself shall be reconstituted. The Government does not concur in the recommendation of the Advisory Committee that the regulatory authority should be responsible for the management of the Canadian Broadcasting Corporation. However, the legislation will make it clear that the Corporation will be subject to the regulatory powers of the Board of Broadcast Governors in *all matters affecting general broadcasting policy in Canada*. [Emphasis added.]

What exactly was the government's thinking here?

Two basic points were being made. First of all, the government was acknowledging by implication that there had been problems since 1958 with the regulatory structure then in place. The powers of the BBG were ill-defined, particularly as these affected the CBC, and the government therefore proposed to strengthen the regulator's hand. Secondly, section 4 rejected the Fowler Committee's proposal for a Canadian Broadcasting Authority, which would have reconstituted the BBG and the CBC governors under a one-board arrangement. There was nothing untoward, in principle, about the government's position in this matter. The problem was, however, that the White Paper's allusion to the CBA shifted attention away from the whole rationale for reverting to a one-board system: namely, to avoid "duplication of expense and effort, undesirable friction, and a loss of efficiency", as well as the opportunity for political interference and the tendency of the "separate" regulator to become a regulator for the private sector alone.³

In any case, having recognized some of the structural ills of

3 See Fowler II, p. 97.

broadcasting, the government proposed to cure them by giving -- the BBG more power. The general provisions of section 4 do not speak of increased powers over the private sector — and nowhere does the White Paper suggest objectives for the private sector, except in the vaguest terms. The CBC, however, would now be subject to the BBG's powers "in all matters affecting general broadcasting policy in Canada", which suggested that the CBC was being demoted even more by the Liberals than it had been by the Conservatives in 1958. But a two-board system was to be maintained, and the CBC board would presumably continue to have major responsibilities. In other words, CBC responsibility for "operating a national broadcasting service" (1958 Act, section 29) and BBG responsibility for "ensuring the continued existence and efficient operation of a national broadcasting system" (section 10), would not be shared or combined. Yet the "single" independent authority referred to in section 4 of the White Paper suggests a structure resembling the one-board system — or at least one in which the CBC board was to be stripped of policy-making functions and reduced to administration of the Corporation's day-to-day business. If the government thought that this unusual balance of powers in a "two-board" arrangement would solve the mutual problems of the agencies in question, the history of CBC-CRTC relations would prove it wrong.

It is worth pointing out here that the Fowler Committee's views on the regulatory structure were not shared by the two figures most deeply affected by the new policies — the president of the CBC and the chairman of the BBG. Neither Ouimet nor Stewart, each for his own somewhat different reasons, believed that it would be practicable to revert to a one-board system. But the two-board system, or systems, which they had in mind were quite unlike that proposed by the government. One of the most fundamental ways in which they diverged was over characterization of the Canadian broadcasting structure as a "single system". Ouimet in particular had been urging for years that the government give *de jure* recognition to the fact that Canada had an incipient dual system, and that it do away with the legal fiction of the single system. In his scheme of things, as well as in Stewart's, the regulator was to be formally acknowledged as the regulator of the private sector only, with a more independent CBC being left free to pursue its own policies under direction from its board, which would be answerable directly to Parliament. However, the government saw no wisdom in acknowledging the separate and distinct goals and rationales of the two sectors, and by its explicit mention in the White Paper of the "single system", gave the concept a new legitimacy and intellectual appeal. The idea subsequently found its way into section 3(a) of the 1968 Act ("broadcasting undertakings in Canada . . . constitute a single system"). In none of the previous broadcasting legislation was it deemed necessary to make any such reference. The more pro-

nounced the dual nature of the system has become, the greater seems the urge to describe it in instruments of policy or legislation as "single".⁴

After stating its commitment to a "reconstituted" BBG (which was now intended to function with five full-time members instead of only three), the government moved on in its White Paper to consider alternative television service, programming, and Canadian ownership of facilities. The "highest possible priority" was being given to extension of national coverage, but alternative television service was "an amenity now regarded almost as a necessity of life", and therefore almost as important as extension of coverage (section 5). In Section 7, the CBC was said to have "a special place in the field of public-service programming", but private broadcasters also had "a positive responsibility to contribute to a wide range of audience choice, to meet certain standards of public service, and to achieve the highest quality of programming they can reasonably afford." Regulations, it was suggested, would be partly replaced by individual station performance requirements, and "Canadian" content would be defined more realistically. Past performance would be taken "fully into account" when licences were due for renewal. The government also intended to give guidance to the BBG "aimed at preventing foreign control of broadcasting facilities, the domination of a local situation through multiple ownership, or the extension of ownership geographically in a manner that is not in the public interest" (section 8).

Nine sections of the White Paper were devoted to the CBC. Section 13 referred to the CBC mandate to provide a national broadcasting service, noting that it had discharged its mandate in an "altogether praiseworthy" manner, despite any definition or interpretation of this mandate in the legislation. It then spelled out what this interpretation had been, in terms very much like those used in section 3(g) of the 1968 Act, which described the national service. There were two important provisions on financing and commercial activities. In section 15, the government agreed with the Advisory Committee that "the Corporation should be financed by means of a statutory five-year grant based on a formula related to television households"; and in section 16, it proposed that the CBC not be asked to increase its 25 per cent share of the television advertising market, in other words, that it

4 "A reason for the statutory statement on the 'single system' was uncertainty as to how to deal with CATV operators. They had always required radio licences, under the Radio Act, but it had only fairly recently been ruled by the B.C. Court of Appeal that the use of a receiving antenna subjected them exclusively to federal jurisdiction; the matter had not then been dealt with by the Supreme Court of Canada. The statutory definition of CATV systems as "broadcasting receiving undertakings" brought them under the CRTC, and they therefore had to be regarded as components of a single national system, because of their pervasive impact on both public and private broadcasters." (Personal communication to the writer from Henry Hindley, October 2, 1978.)

not become "unduly dependent on commercial resources". The White Paper ended with the prediction that, after enactment of the new legislation, both the CBC and BBG would "be fully aware of what is expected of them", and thus "able to plan confidently for the future". The broadcasting system would "have a ready capacity to adjust to new forces", in order to contribute powerfully in the future, as in the past, "to the essential goal of Canadian unity".

As they stood, the provisions of the White Paper would not alter the face of Canadian broadcasting, and many were pleased that this was so. The government had followed the details of some of the advice it had received, without attending to broader effects — despite its statement in section 2 to the very contrary.⁵ Not surprisingly, the overall scheme had more resemblance to what Don Jamieson had proposed in his Troika report than to what either Ouimet or Stewart had proposed in theirs. And indeed, the Commons committee which examined the White Paper, with hearings beginning in December 1966, included the former president of the CAB, as well as a large Liberal contingent who seemed determined not to analyse the document too closely.⁶ Thus, at least 16 of the White Paper's 21 sections are followed in the committee's report by "The Committee concurs . . .", or some such phrase, and there are few reservations expressed elsewhere. The new bill, however, was already in the works before the report was ready, so that it would have had little effect in any case. As we shall now see, the text of the new legislation, and the debate surrounding its passage, added very few new elements to the unending discussions on the nature and purposes of the Canadian broadcasting system.

5 See above, p. 63.

6 Even as the committee was examining the White Paper, Jamieson's business partner, Geoffrey Stirling, was busy trying to use his influence and that of two other associates with close Liberal connections to have their station, CKVR-TV, moved from Barrie to Toronto. The affair eventually created such embarrassment for the Liberal cabinet that it was forced to withhold approval on the BBG's recommendation for a change in the station's transmitter site.

7

The Broadcasting Act, 1967-68

Several versions of the new broadcasting legislation were drafted over the course of 1967, under the guidance of the Secretary of State, Judy LaMarsh, and Bill C-163 finally received first reading in the House on October 17. It was then passed into law in a somewhat amended form on March 7, 1968. The new legislation was entitled "An Act to implement a broadcasting policy for Canada", in contrast to its predecessor, which was simply "An Act respecting Broadcasting" — an act which was much criticized for its failure to provide clear goals and policy direction to either public or private broadcasters.

In her opening remarks on the resolution to introduce the bill, Miss LaMarsh singled out various principles discussed by the White Paper in this connection. "The most important of these principles," she said,

is surely that which established that the airwaves, which must be shared between public and private broadcasters, are public property¹ and that they constitute a single broadcasting system. It is impossible to exaggerate the importance of broadcasting as a means of preserving and strengthening the cultural, social, political and economic fabric of Canada, and the system therefore has to be effectively owned and controlled by Canadians. (*Debates*, October 17, p. 3174)²

1 On the airwaves as public property, see above, p. 47.

2 Further references to Hansard in this section will be page references only.

In regard to the question of language and the relative importance of the public agency, she commented that "this country needs a national broadcasting service in English and French, the requirements of which must have clear priority over the interests of the private broadcasters" (3174). The agency providing this service — the CBC — was to enjoy another consideration. It was the government's intention, said Miss LaMarsh, "to recommend to parliament the adoption of a financing formula which will afford to the C.B.C. an assurance of the moneys that are to be made available over a five-year period so that the Corporation can more effectively plan its future operations on a rational basis" (3174).

In the course of the debate, members of all parties waxed eloquent about the significance of broadcasting to the Canadian nation: none was heard to belittle its importance. Many also agreed that a clear legislative statement of broadcasting objectives was crucial. Mr. McCleave, for example, said:

I think the obvious failure of broadcasting legislation in the past has been due to the fact that while we in the House of Commons and in the other place have expressed our sentiments about a Canadian system, we have not been able to translate those sentiments into effective legislation. I believe we must be pretty specific in this broadcasting legislation to ensure that the objectives of Canadianism are reached. (3186)

But this was by no means a feeling shared by all members; some had reservations about the legislative exercise being discussed. Mr. Jamieson, for example, pointed out (3188) that "you cannot legislate good broadcasting", even if good quality Canadian programs for Canadians was precisely the goal some members had in mind. Indeed, for all his years of experience as a broadcaster, Mr. Jamieson found the whole business pretty mystifying. "We who are trying to devise legislation for broadcasting," he said, "and those others who are trying to devise policies for broadcasting enterprises . . . are somewhat similar to the sorcerer's apprentice in that we are dealing with forces which we do not really understand" (3189). Mr. Jamieson did not, however, go as far as to suggest that his government abandon the regulation of broadcasting enterprises altogether.

Mr. Prittie, who had already voiced reservations over the use of "high-flown language about national unity and cultural identity" (3179), offered a prophetic warning two weeks later, during second reading, about the problems that might arise from this:

. . . there is one fear in the back of my mind. I have noticed that on the part of members of this house,

French speaking members in particular, there has been a great deal of criticism of the French network of the C.B.C. We hear the charge that it is riddled with separatism and that these people are promoting disunity in the country. This may or may not be true. I simply do not know. But I would not want to see a witch-hunt started because there is something in the bill saying that national unity must be promoted which would enable the government to go to anyone who was not doing exactly what was wanted and say: You are not promoting national unity; you are a separatist and therefore you are out. There is a possible danger there. (3762)³

Mr. Nielsen, speaking from the Opposition benches, was one of the bill's most outspoken critics, not least because under one of its provisions, the public sector was defined as the dominant element in the broadcasting system.⁴ He remarked that the "private sector of broadcasting is placed in a clearly disadvantageous and inferior position, not necessarily because it is less responsible than the C.B.C. but simply because it is private" (3884). Mr. Nielsen continued:

The assumption underlying this bill, Mr. Speaker — and this is what galls me — is that when Hogan's Heroes appears on the C.B.C. it somehow contributes to the national destiny and unity, whereas I Love Lucy does not, because it is on the private network. That stretches credulity a bit too far, even for me. If the provisions in this bill are applied in their present form, broadcasting freedom will disappear. (3887)

In general, members on both sides were less concerned with commenting on the policy objectives of the bill than delivering themselves of a series of vociferous criticisms directed at the CBC. The great majority of MPs seemed to favor, at least in principle, the existence of a subsidized, publicly owned broadcasting agency for Canada. Furthermore, many were against, or said they were against, any form of program censorship or political interference with the public agency. Although many prefaced their more general remarks on broadcasting with words of praise for

3 Section 3(g) (iv) of the 1968 Act declares that the national broadcasting service should "contribute to the development of national unity and provide for a continuing expression of Canadian identity." A copy of section 3 appears below as Appendix I.

4 Section 3(h) in the act as passed. This section provides that "where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, it shall be resolved in the public interest but paramount consideration shall be given to the objectives of the national broadcasting service."

the accomplishments of the CBC, the weight of opinion during the debates on C-163 ran very much against the Corporation. It had always been an easy target for disgruntled MPs, but now seemed to be nothing less than a scapegoat for many of the country's ills.

Denunciations of CBC producers and programmers as irresponsible were not, as might have been expected, concerned with abusive political journalism; rather they took the form of morally indignant tirades concerning traditional social values and the proprieties of certain kinds of behavior. Thus, Mr. Deachman spoke heatedly of the "morbid preoccupation of the C.B.C. with the dregs of society, the pornographers they bring from across the line, the nazis, racists, prostitutes, addicts and characters of doubtful sex" (3954). Mr. Thompson talked of how Canadians were "mired in the cynical, depreciating mud strewn views of so many of the C.B.C. producers and exponents of weird ideas" (3957-58). Mr. Bigg warned that it was "terribly dangerous to bastardize the Canadian airwaves by encouraging only the negative, only the filthy, only the ugly." He went on to claim: "I say there is a plot, a well thought out and clever plot to reduce Canada to a group of fractured institutions" (3994).

If this allegation of a CBC conspiracy was largely fanciful, the debate nonetheless expressed the very real anxiety felt by many members over the decline of some of Canada's traditional values and institutions. The mid-sixties was a time of great social upheaval in this country, as well as in other Western countries. By 1967, moreover, the province of Québec had been considerably transformed by the Quiet Revolution, and the separatist movement was threatening Canada's very political integrity — ironically, in a year when Canadians were euphorically celebrating their centenary.

As a general commentary on social change, therefore, some of the debate surrounding passage of the bill was not altogether inappropriate. What was inappropriate was the urge to blame the CBC for the decline of traditional institutions, for being, as it were, the bearer of bad tidings. Much was heard on the floor of the House about balance, objectivity and responsibility — or the lack of it — in CBC programming. Some MPs felt that the "beard-and-beret" set at the CBC had been remiss in their duty to bring a positive point of view to Canadians, and suggested that the CBC should be brought under much stricter parliamentary control — as though this would provide some guarantee of objectivity. Mr. Knowles put the whole matter in perspective in a question to Mr. Thompson, who had been talking about lurid stories carried by the CBC on the subject of free love and prostitution in Yorkville (Toronto). "In view of the comments he has made about the C.B.C. carrying programs on this subject," asked Mr. Knowles, "what does he think about the *Globe and Mail* running press stories of this type?" Mr. Thompson replied that this would con-

stitute "an altogether different thing" (3979).

At all events, the Broadcasting Act of 1968 introduced a number of new policy and institutional provisions. Not the least of these was contained in section 3, entitled "Broadcasting Policy for Canada". Its 10 sub-sections dealt with such considerations as ownership of the system by Canadians, the right to freedom of expression, balance and quality in programming, extension of services in English and French and the establishment of a national broadcasting service. Section 3(g) described a mandate for the national service which bore a striking similarity to the mandate outlined by the CBC itself in a brief to the Fowler Committee (see *Report*, p. 124). It should be further noted that the mandate forwarded to the committee had been an expansion of one contained in the annual report of the CBC for 1963-64.

The other major innovation of the new act was the establishment of the Canadian Radio-Television Commission (CRTC) to replace the BBG. The CRTC was required to "regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy enunciated in section 3" (section 15). Its powers under the new act were more sharply defined and closely delimited than those of the BBG had been. For the first time, the power to issue licences was delegated completely to the regulatory body; until 1968 the government had issued broadcasting licences itself. An important corollary to the delegation of licensing authority was the power to give directions on "classes of persons eligible to hold licences"; hitherto, the government had simply had to decline to issue licences to foreigners or creatures of provincial governments, but now it had power to give directions to the CRTC on such matters. Though it might have seemed simpler to include a definition in the act, as in the 1958 Act, the fact was that the 1958 definition was not watertight, and it took three successive changes before the Order in Council on this subject really brought the situation under control.

Nevertheless, despite marginal improvements, the new legislation attacked few of the basic problems of the Canadian broadcasting system. As the House debated Miss LaMarsh's bill, it became apparent that many members shared a general reluctance to come to grips with these problems. Certain of the CBC's previous troubles — such as the scandal over "This Hour Has Seven Days", little more than a year old — had not faded from parliamentary memory. However, such conflicts were not perceived by the politicians as problems of structure or policy, but merely as issues, irksome personality clashes or individual abuses of privilege. Most members wanted a national broadcasting service, but complained bitterly of CBC extravagance and quibbled over budget detail.⁵ In the House, both professed supporters and de-

5 Before the new act was finally adopted, the government, under pressure from the Conservatives, removed a clause providing five-year statutory funding for the CBC.

tractors of the CBC claimed the public sector was the dominant element in the system. What facts relating to revenues, numbers of stations, audience size and programming preferences supported this contention? What was the role of the private broadcaster in the mid-1960s? Could programming quality be regulated? Were promises of station performance being enforced, and if not, why not? Was the U.S. programming invasion in fact a threat to the cultural values of the large numbers of Canadians who insisted on giving it their support? Why was cable TV defined in the bill as a "broadcasting receiving undertaking"? Why in 1964 had the government specifically instructed Fowler not to examine cable, even though it had existed in Canada since the early 1950s and become perhaps the most important technological innovation in broadcasting after television itself?

The lack of critical appreciation of the realities of broadcasting evinced by some members of the House, and the corresponding preference of others for what Mr. Prittie called high-flown language about national unity and cultural identity, were compounded by wider political problems of the day. To begin with, Miss LaMarsh's relationship with the president of the CBC, Alphonse Ouimet, had deteriorated to the point where, even as the bill was being drafted, they had little face-to-face contact, and negotiations over matters affecting the CBC were largely carried out through Prime Minister Pearson. To make things worse, Miss LaMarsh felt that the prime minister himself was being less than fully supportive of her endeavors. Finally, in the very midst of the debate over C-163, Miss LaMarsh told a national television audience that the CBC was suffering from "rotten management". The minister declined to go into details, either on television or in the House, where the remark became the subject of a heated debate. Ouimet subsequently addressed a strongly-worded public letter to the minister, asking her to substantiate the charge, but her only reply was to describe Ouimet's letter as "arrogant" (3882).

As the government's relations with the CBC sank to an all-time low, it was announced that both Alphonse Ouimet and Andrew Stewart would be retiring from their posts even before full consideration had been given to the new bill. The new CBC appointments — of George Davidson as president and Laurent Picard as vice-president — became effective February 1, 1968, while Pierre Juneau, who had been working on the establishment of an educational television agency for Miss LaMarsh, was appointed to head the CRTC as of April 1, 1968. Miss LaMarsh, who had become more and more isolated from both the CBC and the prime minister, had long since announced her intention to retire from politics, as had Pearson himself. A new régime was beginning, but it was more in spite of the legislation than because of it.

8

Summary of Historical Themes

The founding principles of the Canadian broadcasting system

The founding principles of the Canadian broadcasting system were political, technical and economic in nature. They can be summarized as follows:

- The radio frequency spectrum or airwaves should be considered a scarce natural resource to be exploited in the public interest.
- There should be strict and thorough-going federal control of all aspects of broadcasting (with some sharing of jurisdiction with the provinces), partly to protect Canadian identity and sovereignty from the incursions of the U.S. broadcasting empires.
- The system should be controlled by a single public agency which would both provide a national broadcasting service and regulate all private broadcasting enterprises.
- This body should be at least partly funded independently of government.
- Broadcasting services should be extended to all Canadians as quickly as possible.
- The system should be primarily Canadian in its programming and provide employment for Canadian artists, technicians and broadcasters.

These principles shared three striking features. First, they

- gave explicit and unequivocal support to the idea of a publicly owned and controlled system. Second, they generated a remarkable degree of consensus among the members of the first royal commission, the Radio League and the Bennett government, as well as among a very wide cross-section of editorialists, politicians and voluntary organizations. Third, they have survived with great tenacity as a set of policy objectives with very little change in half a century.

The U.S. and British models

There have, however, been discrepancies between these objectives and the ways the structure of the system has actually developed. Commentators often draw a contrast between the American and British broadcasting models, each of which is taken to have influenced the Canadian system. Our system is therefore regarded as a "mixed" system, comprising public and private elements.

- In fact, the founding principles of the system were wholly inspired by the BBC, a much-admired exponent of public broadcasting; and it was the clear intent of Parliament to resist the influence of the U.S. model, that of virtually unregulated free enterprise. In its historical development, however, the Canadian system has become very much what its architects deplored and wished to avoid — despite the presence of a public broadcasting agency and "public interest" objectives enshrined in law.

This tension between national purpose and vested interest has been the major problem of broadcasting policy since the early days of the system. The founding father of the system, R.B. Bennett, had a strong attachment to both private enterprise and public broadcasting — an ambivalence once described by Graham Spry as a "conflict within his soul". It is a conflict which has been shared by many other Canadian political leaders since Bennett.

Affiliation and Commercialization

This ambivalent philosophy is reflected in Canada's "mixed model" system. The most prominent effect of this arrangement has been the marriage of convenience between the CBC and its private affiliates, which together provide the national broadcasting service.

- Historical, geographical and economic circumstances made such co-operation necessary, and until the advent of television, it served the country reasonably well. However, by the mid-sixties it became clear that benefits were accruing in unequal fashion: the private affiliates were being indirectly subsidized by the CBC, without being accountable for the sustaining programs they chose

to broadcast. After 1958, the CBC had lost both its role as regulator of the system and its dominant position as an operator of stations. These changes had a pronounced and lasting effect on CBC television programming, which became commercialized and Americanized during the 1960s to an extent never before anticipated. The affiliation arrangement with private stations has obliged the CBC to pursue a more aggressive commercial policy and pay more heed to the demands of advertisers and the marketplace. This has led to considerable confusion in the role of the CBC as an agent of public service.

The single system concept

The history of Canadian broadcasting centres very much on the evolution of the single system into a structure resembling a dual system. This has occurred as the public and private sectors developed in their different directions, the primary goal of the former being to serve the public interest, and of the latter, to show a healthy profit on investment. But the resemblance to a dual system ends there. First of all, there is an institutional overlapping between the two sectors in the CBC arrangement with its private affiliates. Unlike the BBC, the CBC has never had at its disposal all the stations needed to provide the national service, while many of the smaller private affiliates have been unable to afford sufficient domestic programming to fill their daily schedules. In the second place, the quasi-dual system has never been acknowledged in law, and this has led to much confusion in the CBC's relationship with the regulator. It has also led to difficulties in implementing the statutory policy objectives; it is questionable, for example, whether private broadcasters can be expected to serve the public interest or the CBC to seek commercial revenues with mass-market programming.

Thus, the creation of a separate regulator by the 1958 Act did not by itself spell the end of the single system, because the single system had already undergone drastic change in any case. The problem with the broadcasting acts of 1958 and 1968 was not that they went too far in dismantling the single system, but that they did not go far enough. The 1958 legislation tried to appease the private broadcasting lobby by establishing a two-board system (which is often mistakenly construed as a dual system); the 1968 legislation, while maintaining this structure, paid lip service to the founding principles of the national service by describing the system as single, with public and private elements. This ungainly attempt to serve two masters has only succeeded in frustrating the interests of both.

The Role of the Canadian Association of Broadcasters (CAB)

Private radio stations were operating in Canada a decade and more before the establishment of the first public broadcasting agency in 1932 (the CRBC) — a fact that is often forgotten. The CAB itself was founded in 1926, two years before the appointment of Canada's first federal inquiry on broadcasting (the Aird Commission).¹ The early existence in Canada of commercial programming, combined with long delays in the drafting of comprehensive legislation, meant that years before there was an operational national service, there was a sizeable Canadian following for commercial radio programming, much of it American. Federal policy was therefore developed long *after* Canadians had acquired certain listening habits, and the architects of the national service did not take this sufficiently into account.

It is also worth recalling that the CAB has never been simply content to live with the public agency in peaceful co-existence. Since the earliest days of the CRBC, the CAB has provided organized resistance to both the agency, and the goals of national purpose which it was designed to serve. If this resistance has been organized, it has not been monolithic: the CAB has nearly always reflected the views of the wealthiest and most powerful private stations, rather than those of its smaller members. While the CBC's relations with the smaller private broadcasters have often been harmonious and mutually beneficial, the CAB has never seen its members as one element in a single broadcasting system, and has certainly never subscribed to the statutory objectives of the Canadian system except under duress or to enhance its public image.

Control of Broadcasting by Statute and Regulation

The earliest legislation (1932 and 1936) foresaw only a minor role for private commercial stations. By 1958, however, the CBC had lost its function as regulator under the one-board system, and the private sector, grown to unimagined proportions, had become the dominant element in the system. As long as the CBC retained the statutory power to control networks and expropriate independent stations, and remained dominant over the private sector in fact as well as in name, then there was little need for elaborate regulations designed, for example, to protect Canadian program production.

In the absence of these conditions, the newly created BBG was faced with the task of controlling the activities of two different sectors with widely divergent goals, under the provisions of an act which had not squarely faced the new realities of Cana-

¹ The CAB was originally founded to resist demands of the Canadian Performing Rights Society for broadcast royalties on musical recordings.

dian broadcasting. The private sector had by now outgrown the legislative frame of reference, and if the objectives of the 1958 Act were to be realized, they would have to be realized by *regulation*. Thus, the BBG's efforts to regulate station performance, financing, advertising and Canadian content quotas were intended to bridge the gap between the objectives of national purpose and the imperatives of television, CATV, American syndicated programming, multiple ownership and so on. From the present vantage point, it is apparent that these efforts have not been entirely successful, under the régime of either the BBG or its successor, the CRTC.

The Role of Inquiries

In the period up to 1968, there were two fully-fledged royal-commission inquiries into Canadian broadcasting: those chaired by Sir John Aird (reporting in 1929) and Robert Fowler (reporting in 1957). Two other royal commissions with wider terms of reference gave some attention to broadcasting: the Massey Commission on National Development in the Arts, Letters and Sciences (reporting in 1951) and the Glassco Commission on Government Organization. The Massey Commission conducted a far-ranging inquiry into the whole broadcasting system, whereas the Glassco Commission submitted only a brief report on the CBC in 1963. Finally, in 1964, Robert Fowler was again appointed by the Liberals to conduct an inquiry into Canadian broadcasting, but this time as head of an advisory committee to the Secretary of State.

The findings of these different inquiries show a remarkable degree of continuity and consistency. At the same time, successive governments have been remarkably consistent in their rejection of these findings, or what is more common, their failure to act upon specific recommendations. Nothing illustrates this point better than the vexed question of independent funding for the public broadcasting agency. These inquiries have all emphasized that the public agency can only plan efficiently, maintain its independence and make room for creative and unorthodox programming when it is assured of long-term funding that is not subject to the vagaries of parliamentary debate or the political machinations of government. Yet in almost every year since 1953 when the receiver licence fees were abolished, the CBC has been forced to draw up budgets on the basis of annual appropriations subject to political control. In 1958, with the report of the Fowler Commission in its hands, the Conservative government failed to make any statutory provision for a long-term CBC operating budget. Ten years later, against the advice of still another Fowler report, as well as the terms of its own White Paper, the Liberal government withdrew such a provision from Bill C-163 (passed into law with amendments as the current Broadcasting Act).

The Adequacy of Section 3 of the Broadcasting Act

Section 3 of the 1968 Act, which describes a "broadcasting policy for Canada", presents special problems of analysis and interpretation. The Broadcasting Act is unusual in providing such a statement of policy as an explicit part of the legislation itself, rather than as part of a preamble. Such a statement can make neither detailed nor exhaustive provisions, and it would be all too easy to criticize section 3 for its vague and rhetorical language. Nevertheless, there are particular weaknesses of both style and substance which deserve mention.

Section 3 addresses the objectives of both the broadcasting system as a whole, considered as a single system, and the national broadcasting service, taken as one element of this larger whole. Paragraphs (f) and (g) are devoted exclusively to the national service, but they are incorporated into section 3 along with other more general provisions. This means that the national service is treated both as one element of the system (the public element), and as a special case. On the other hand, no special policy statement or mandate corresponding to paragraph (g) is provided for the private element.

Thus, paragraph (d) speaks of "balanced opportunity for the expression of differing views", and paragraph (g) (i) of a "balanced service of information". Paragraph (e) declares that "all Canadians are entitled to broadcasting service in English and French as public funds becomes available", and paragraph (g) (ii) that the national service should "be extended to all parts of Canada, as public funds become available." Paragraph (d) declares that the programming provided by each broadcaster should use "predominantly Canadian creative and other resources", while paragraph (f) speaks of providing a national service that is "predominantly Canadian in content and character".

But the problems of section 3 extend beyond infelicitous repetition, or even the regulatory difficulties posed by this treatment of the objectives. Some of the sentiments expressed by this section simply do not accord with the realities of broadcasting in Canada. While the broadcasting system may not yet be altogether a dual system, it is clearly not a single system, as paragraph (a) declares — nor was it when the legislation was actually being drafted. It is the CBC's affiliation arrangements with private stations which give this idea the ring of truth; and indeed, there may be something to be gained from incorporating the concept into a general legislative statement of policy. Furthermore, radio frequencies may be "public property" in law and for certain purposes (see section 3(a)), but if this passage implies that station licensees have no vested interest in their assigned frequency, or that channel allocations and licence renewals, because they involve public property, are made in the public interest, then this idea too is out of keeping with the testimony of recent history. Or again, in

paragraph 3(h) it is stated that "where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, it shall be resolved in the public interest but paramount consideration shall be given to the objectives of the national broadcasting service." Any careful student of Canadian broadcasting history will have reason to doubt the veracity of this statement.

One other criticism of a slightly different order might be mentioned in passing. This concerns the provision of 3(g) (iv) whereby the national broadcasting service is required to "contribute to the development of national unity". It is questionable whether, as a matter of general principle, the inclusion of such a provision in the mandate of a public broadcasting agency is appropriate. In the light of the CRTC's controversial 1977 inquiry into alleged separatist bias in CBC programming undertaken at the request of the prime minister, it would seem that the forebodings expressed by Mr. Prittie, the New Democratic MP, in 1967 were quite justified (see above, p. 70).

Despite these weaknesses, it is difficult to imagine how such a legislative declaration of policy objectives could be improved upon without drastically altering its substance or intended purpose. This raises another major consideration, namely that section 3 cannot be judged strictly on its own merits: it is a *general* declaration of policy which must be interpreted and applied by the departments and agencies concerned, above all by the regulatory authority, the CRTC. This reliance on interpretation is customary and even necessary, but it creates special problems in the domain of broadcasting, partly because of the confusion in federal lines of authority. Under current institutional arrangements, responsibilities for broadcasting are shared among government departments: for example, the Department of Communications is responsible for technical authorization and policy matters, while the CBC reports to Parliament through the Secretary of State. Furthermore, the boards of the Corporation and the CRTC have an unusual relationship, in that both are ultimately accountable to Parliament, and yet the CRTC holds regulatory powers over the Corporation, as it does over all other broadcasters.²

The nature of section 3, and the administrative anomalies of the two-board system have forced the CRTC to make far-reaching policy decisions on an ad hoc and not entirely accountable basis. In some cases, these decisions have been concerned with areas not adequately covered by section 3, or any other section of the

2 Because of the special duties of the Corporation in regard to the national service, section 17(3) of the act provides that if the CRTC's Executive Committee "attaches any condition to a broadcasting licence . . . that the Corporation is satisfied would unreasonably impede the provision . . . of the national broadcasting service contemplated by section 3, the Corporation may refer the condition to the Minister [of Communications] for consideration. . . ."

act. Perhaps its single most important omission relates to the distribution of radio and television signals by coaxial cable. Other decisions have had the effect of frustrating the CBC board and its president, and even bringing them into open conflict with the CRTC, as at the 1974 CBC licence renewal hearings.

These last two issues — the status of cable and CBC-CRTC relations — point to one final consideration. If section 3 cannot be judged entirely on its own merits, then, by the same token, the chronic ills of the Canadian broadcasting system will not be cured merely by further refinements or revisions of the legislative policy objectives. Little can be gained from debating whether certain objectives of the system and the national service are appropriate, when many technical and cultural realities of the system and the national service are simply not addressed by the major institutional provisions of the Broadcasting Act. A new act should, for example, provide an adequate definition of cable operations, which have become the major agent of Americanization in the Canadian broadcasting structure. A new act should also resolve the painful difficulties posed by the two-board system, perhaps by taking the CBC out of the CRTC's jurisdiction, so that it becomes answerable directly to Parliament and to Parliament alone. At the same time, the dilemma of financing the CBC must be resolved by provision for long-term statutory grants based on a fixed formula; the CBC should perhaps also be allowed to seek diversified sources of revenue over and above parliamentary appropriations and the sale of advertising. In a more general vein, the Canadian broadcasting system must be seen in the wider context created by new technologies such as fibre optics, direct broadcast satellites and interactive cable systems. But whatever telecommunications policies may be developed with this wider context in mind, only a government which is prepared to countenance genuine change in the structures of Canadian broadcasting will realize any measure of success in implementing the time-honored objectives of the broadcasting system and the national service.

Appendix

Excerpt from the *Broadcasting Act*. 1967-68, c.25, s.1.
Broadcasting Policy for Canada

3 It is hereby declared that

(a) broadcasting undertakings in Canada make use of radio frequencies that are public property and such undertakings constitute a single system, herein referred to as the Canadian broadcasting system, comprising public and private elements;

(b) the Canadian broadcasting system should be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;

(c) all persons licensed to carry on broadcasting undertakings have a responsibility for programs they broadcast but the right to freedom of expression and the right of persons to receive programs, subject only to generally applicable statutes and regulations, is unquestioned;

(d) the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern, and the programming provided by each broadcaster should be of high standard, using predominantly Canadian creative and other resources;

(e) all Canadians are entitled to broadcasting service in English and French as public funds become available;

(f) there should be provided, through a corporation established by Parliament for the purpose, a national broadcasting service that is predominantly Canadian in content and character;

(g) the national broadcasting service should

- (i) be a balanced service of information, enlightenment and entertainment for people of different ages, interests and tastes covering the whole range of programming in fair proportion,
 - (ii) be extended to all parts of Canada, as public funds become available,
 - (iii) be in English and French, serving the special needs of geographic regions, and actively contributing to the flow and exchange of cultural and regional information and entertainment, and
 - (iv) contribute to the development of national unity and provide for a continuing expression of Canadian identity;
- (h) where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, it shall be resolved in the public interest but paramount consideration shall be given to the objectives of the national broadcasting service;
- (i) facilities should be provided within the Canadian broadcasting system for educational broadcasting; and
- (j) the regulation and supervision of the Canadian broadcasting system should be flexible and readily adaptable to scientific and technical advances;

and that the objectives of the broadcasting policy for Canada enunciated in this section can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority. 1967-68, c.25, s.2.

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